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# *CONNECTING MONTANA TO THE WORLD*



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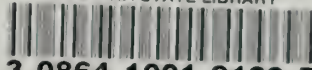
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*GOVERNOR'S BLUE RIBBON TELECOMMUNICATIONS  
TASK FORCE*

*SEPTEMBER, 1996*

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**Letter of  
Transmittal  
to Fifty-fifth  
Legislature**



# GOVERNOR'S BLUE RIBBON TELECOMMUNICATIONS TASK FORCE



MARC RACICOT  
GOVERNOR

ROOM 229, MITCHELL BUILDING  
125 N. ROBERTS

STATE OF MONTANA

(406) 444-2700  
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PO BOX 200113  
HELENA, MONTANA 59620-0113

December, 1996

The Honorable Gary Aklestad  
President of the Senate-Elect  
PO Box 201702  
Helena, MT 59620-1702

The Honorable John Mercer  
Speaker of the House  
PO Box 201701  
Helena, MT 59620-1701

Dear Members of the Fifty-fifth Legislature:

The attached report and recommendations are the product of the deliberations of the *Blue Ribbon Telecommunications Task Force (BRTF)*. The **BRTF** was authorized by the 1995 legislature to examine Montana's telecommunications infrastructure. The provisions of **House Bill 460** require the **BRTF** to report its findings and recommendations to the Governor and the legislature on or before September 1, 1996. The draft report was filed while the **BRTF** continued to work on remaining issues.

The legislative charge to the **BRTF** was to examine Montana's telecommunication infrastructure and determine recommendations to ensure the implementation of policies, practices, and statutes regarding access to advanced telecommunication services. At the time **HB 460** was approved this was an ambitious agenda to be accomplished in a short time-frame with tremendous implications for the state and the telecommunications industry. Since then, the pace of technological change has quickened and the United States Congress has enacted the *Telecommunications Act of 1996*. The implementation of this Act is just beginning to emerge through the rule making processes undertaken by the Federal Communications Commission. It is clear that the states will have specific responsibilities to be administered by organizations such as the Public Service Commission in each state. However, these responsibilities may not take the form of traditional regulation and may not be currently authorized in Montana statute. The **BRTF** has made recommendations to address these issues and will further refine them prior to the 1997 legislative session as more details become available from the federal agency.





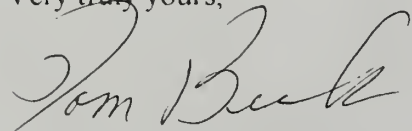
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Members of the Fifty-fifth Legislature  
December, 1996

We have previously recommended to the Governor that a Universal Access Program be created in Montana to cover the 1997-1999 biennium. The **BRTF** unanimously supported this proposal and submitted it to the Governor prior to this report due to budget implications.


I would like to thank the staff of the Information Services Division, Department of Administration for their support of the **BRTF** deliberations. The **BRTF** members themselves have contributed significant time and effort to the responsibilities contemplated in **HB 460**. This report is the product of honest debate and the vision of the **BRTF** members.

Very truly yours,

A handwritten signature in cursive script that reads "Tom Beck".

Tom Beck, Chairman

*Blue Ribbon Telecommunications Task Force*  
Senator, District 28



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**Letter of  
Transmittal  
to Governor**



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December, 1996

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Montana State Governor  
PO Box 200801  
Helena, MT 59620-0801

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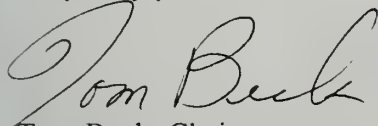
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Very truly yours,

A handwritten signature in cursive script that reads "Tom Beck".

Tom Beck, Chairman  
*Blue Ribbon Telecommunications Task Force*  
Senator, District 28







# **Executive Summary**



## TASK FORCE PROCESS

At its organizational meeting on September 22, 1995, the *Governor's Blue Ribbon Telecommunications Task Force (BRTF)* elected Senator Tom Beck as Chairman and Representative Joe Quilici as Vice Chairman. At this time it was decided that the development of a sub-committee structure would be the most effective means of adequately addressing the broad range of issues assigned to the *BRTF* in **House Bill 460 (HB 460)**.

The *BRTF* reorganized its original sub-committee structure to accommodate the sweeping impact of the passage of the Federal Telecommunications Act of 1996 (**Federal Act**) on February 8, 1996. Each *BRTF* member was given the opportunity to serve on one or more of the following final sub-committees: *Universal Access/Service, Federal Legislation/Policy & Regulation of State Government, and Legislation*.

## SUMMARY OF RECOMMENDATIONS

To encourage the transition to a robust competitive telecommunications marketplace, and to remove barriers to competition and disincentives to investment in telecommunications deployment and use, the *BRTF* developed recommendations regarding *Number Portability, Dispute Resolution, Interconnection, Dialing Parity, Regulation, Competitive Parity in Taxation, Cost/Price Relationships, Unbundling, Capital Recovery, Resale, and Competitive Rates*.

To encourage widespread access to advanced telecommunications technologies in Montana's communities, the *BRTF* recommends the creation of a *Montana Universal Access Program* to be funded at \$1.5 million for the biennium. The Public Service Commission (PSC) would propose legislation to the 1999 legislature for the further attainment of universal service goals, taking into account the impact of the Federal Communications Commission (FCC) rule-making process and decisions resulting from the **Federal Act**.

## IMPORTANCE TO RURAL AREAS

**HB 460** recognized that "access to advanced telecommunications services is essential to ensure continued economic growth, Montana's competitive position in the global market, and a superior quality of life for Montanans". Nowhere is this a more crucial issue than in the state's vast rural areas because advanced telecommunications technologies can overcome the obstacle of geographic distance to deliver educational options, health care, economic opportunities, and more, unleashing the productive capacity of Montanans living in these areas.



## CHANGING TELECOMMUNICATIONS ENVIRONMENT

The **Federal Act** recognized that the technologies and economics of the telecommunications industry have been changing rapidly in recent years. Its passage and implementation through the FCC rule-making process promise only that the regulatory, technological and economic environment of the industry will experience continued dramatic change in the years ahead.





# Background







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The *Montana Telecommunications Advisory Council* was created in 1993 by Senator Conrad Burns and Governor Marc Racicot. It was this organization that drafted the proposed legislation to authorize the creation of the **BRTF** with the purpose of examining Montana's telecommunications infrastructure. The intent and much of the language proposed by the Council remained intact through the 1995 legislature. The Council anticipated the changes in technology that were eminent and the changes in structure to be considered and adopted by Congress. The scope and purpose for the **BRTF** were incorporated in **House Bill 460**.

The 1995 Montana Legislature considered **HB 460** and adopted its provisions. The Governor approved the measure and subsequently appointed members to the **BRTF**. Both House and Senate members of the two political parties sponsored **HB 460** with the four legislators who serve on the **BRTF**, including the chairman, sponsoring the bill as well. The recorded votes in both the House and Senate demonstrated overwhelming support for the proposal contained in **HB 460**. The following language taken from the bill represents Section 1 and states the purpose and scope of the **BRTF**.

*NEW SECTION. Section 1, Task force -- purpose and scope. (1) There is a blue ribbon telecommunications task force (task force) to examine Montana's telecommunications infrastructure. The task force shall recommend policies, practices, and statutory changes that are required to meet customer needs, remove barriers, enhance competitiveness and economic development, and identify ways of securing other identified values and benefits. The task force shall examine but not limit itself to:*

- a) current and anticipated trends in telecommunication technologies and services and their impact on the economic health and general well-being of all Montana citizens;*
- b) ways of defining "basic telecommunications service" in a competitive environment, addressing consumer protection regarding availability, subsidies from other services and providers, and*







*access by low-income consumers and consumers with special needs;*

- c) ways of defining “telecommunications infrastructure and services” and the evolving role of telecommunication providers;*
- d) ways of defining “universal service”, the extent to which it has been achieved, and its role in a competitive telecommunications environment;*
- e) policies regarding extended local calling areas;*
- f) strategies to promote the development and transition to a fully competitive telecommunications marketplace;*
- g) current and alternative forms of regulation for telecommunication providers and the role of state regulation in light of new federal legislation;*
- h) policies, practices, and statutes that create barriers and disincentives to invest in telecommunications deployment and use;*
- i) ways to stimulate private sector deployment of enhanced telecommunication services;*
- j) ways to ensure that Montana’s K-12 and university educational system and public libraries have access to advanced telecommunication services; and*
- k) ways to ensure that Montana’s health care systems have access to advanced telecommunication services.*

*2) The task force is allocated to the department of administration for administrative purposes only as provided in 2-15-121.*







**HB 460** could also be considered an appropriations bill in that it carried a section funding the **BRTF** within the Department of Administration. The bill appropriated \$20,000 from the state general fund and \$175,000 from a special revenue account. The funds to the special revenue account were to be derived from the telecommunications industry and a \$100,000 grant from a federal program. The federal grant was not approved and the **BRTF** has operated on a \$95,000 budget for the support of its work. It is anticipated that the industry will contribute the planned \$75,000 for support of the **BRTF**. The full language of **HB 460** is contained in *Appendix I*.







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On February 1, 1996 the United States Congress passed the Telecommunications Act of 1996 (**Federal Act**). The **Federal Act** is the first comprehensive overhaul of the Communications Act of 1934. The rules governing competition and regulation of the telecommunications industry were dramatically changed. President Clinton signed the **Federal Act** into law on February 8, 1996 and its provisions became effective immediately.

The **Federal Act**'s provisions fall into four major categories:

1. Telephone Service
2. Telecommunications Equipment Manufacturing
3. Cable Television
4. Radio and Television Broadcasting

The highlights of these four areas follow.

#### **TELEPHONE SERVICE:**

The **Federal Act** mandates competition in the local and long distance markets and preempts any state restrictions on competition. The Regional Bell Operating Companies (RBOC) can immediately begin providing long distance services within their regions once they have satisfied a 14 point competitive test. The local markets are now open to competition and with some exceptions for rural cooperatives and independent telephone companies, the local exchange companies are required to unbundle their networks and allow the resale of these services to competitors. The **Federal Act** also provides for number portability so customers can keep their current phone numbers when switching local providers. Universal service rules continue to subsidize rural and low income subscribers as well as assist schools, libraries and health care facilities in order to become connected to sophisticated telecommunication services. The anti-trust decrees are now repealed; however, the requirement for equal access to telecommunication carriers is maintained.









#### **TELECOMMUNICATIONS EQUIPMENT MANUFACTURING:**

The **Federal Act** allows the RBOC to manufacture telephone equipment upon the approval of the Federal Communications Commission (FCC). The **Federal Act** also contains nondiscrimination requirements, restrictions on joint ventures, what role Bellcore, the RBOC research facility, will play in setting standards, and a requirement that the FCC promulgate rules making telephone equipment accessible by people with disabilities.

#### **CABLE TELEVISION:**

The **Federal Act** relaxes the rules that govern cable television. Rate regulation will be removed in three years (March 31, 1999) on all cable services with the exception of basic tier (over the air channels and educational/public channels). Telephone companies are permitted to offer cable services or carry video programming for other entities. Cable companies along with other providers are free to provide telecommunication services in the local and long distance markets.

#### **RADIO AND TELEVISION BROADCASTING:**

The **Federal Act** relaxes the FCC's media concentration rules by allowing any single company or network to own television stations that reach as many as 35% of the nation's television households. The networks (ABC, CBS, NBC, etc.) for the first time are allowed to own cable television systems. There are no limits on ownership of radio stations. Television equipment manufacturers are required to equip all new television sets with the V-chip which will allow blocking of violent, sexually explicit or indecent programming.







**The most important thing we can do as a state in regard to telecommunications is to ensure that the infrastructure is built, that all who live or travel in Montana can connect to the "outside" world, that the cost of connecting regardless of geography is affordable and easily accomplished.**

**If rural segments of our population are unable to make the connection, then we effectively will create a society of information haves and have-nots.**

**If a seamless network of multiple, technically compatible providers is not built, Montana will fall behind the rest of the nation and lose its ability to compete in a global economy.**

### **EDUCATIONAL APPLICATIONS**

**Montana schools, universities and tribal colleges will find it increasingly more difficult to secure grant funds without a network infrastructure.**

**Access to telecommunications breaks down geographical and cultural isolation for students.**

The information revolution is rapidly moving the residents of Montana toward a future which is increasingly dependent upon technology, information exchange and telecommunications. Telecommunication services are a part of every aspect of our lives, including health, education, safety, business, public programs, and community services.

Access to advanced telecommunication services is essential to Montana's continued economic growth.

1. Advanced telecommunication services will create new, higher-paying jobs for Montanans.
2. Completion of a seamless information network will help to remove the barrier of Montana's low population and vast distances and will secure Montana's competitive edge in state, national and global markets.

### **VISION:**

All Montana residents, businesses and institutions will have affordable access to a wide choice of telecommunication services provided by a fully competitive and seamless network of multiple, technically compatible providers. Our vision for a competitive, advanced telecommunication market for Montana is to support an environment which ensures that:

1. consumers enjoy the benefits of greater choices among high-quality, affordable telecommunication products and services that respond to the complex demands of the state's diverse population;
2. businesses enjoy heightened productivity and competitive advantage by choosing freely from a rich menu of telecommunication products and services ranging from basic access to the most sophisticated high-speed services;
3. telecommunication services increase access to and improve the quality, efficiency, and service delivery of vital services such as education, health care, or access to vital government services for all Montanans; and







Access to tele-communications assures student worldwide participation in educational, scientific & cultural exchanges.

Montana math and science students will be able to participate with scientists gathering & analyzing data involving Montana's pristine environment.

Access to unlimited resources and research tools empowers Montana students to successfully compete nationally & internationally.

### BUSINESS APPLICATIONS

Access to urban home pages by consumers doesn't cost the urban business. After the page is running, the consumer will pay to get to them. It is cheaper than most traditional types of direct marketing.

Attracting new businesses to the state is enhanced by the ability to set "virtual offices" at any geographical location.

- 4. all Montana residents, regardless of circumstances, enjoy accessible, affordable access to, and knowledge of the fundamental telecommunication services necessary to participate in the changing social and commercial infrastructure of Montana, the nation and the world.

### GOALS:

To realize this vision the State of Montana supports the following goals to guide telecommunication development.

- 1. The State of Montana will move quickly to encourage full and open competition by creating a level playing field where government policy treats telecommunication providers on an equal and impartial basis.
2. During the transition to a fully competitive telecommunications market, the State of Montana will continue to actively support consumer protection while allowing telecommunication providers maximum freedom to respond quickly to customer needs and demands free of regulatory delays.
3. During the transition to a competitive market, telecommunication regulation will be adjusted to produce the same outcomes as competition by adopting policies that:
a) provide the ability to price efficiently;
b) stimulate private sector deployment of advanced telecommunications infrastructure; and
c) create incentives for companies to provide services, supply products, and make new investments in the most efficient manner.
d) ensure consumers receive high quality service at the lowest possible price.
4. The telecommunication role of the Montana PSC will evolve from that of a traditional regulator of telecommunication utilities to an active role as facilitator and coordinator of telecommunication development in the state of Montana.







Increased rural demand for Internet providers and services will be accomplished through exposure to the world wide web.

### MEDICAL APPLICATIONS

Consultations and nurse training are more cost effective than travel in Montana. Many rural LPN's are single heads-of-households who cannot afford to leave their jobs to continue their education.

Medical professionals will be able to communicate and do research with their contemporaries regardless of location.

Electronic transmission of X-rays from rural to urban radiology labs will facilitate on-site diagnosis.

### APPLICATIONS for SPECIAL POPULATIONS

As more services are placed on the net (gov't and consumer) persons with special needs can access services more easily through the Internet.

The net allows handicapped persons to communicate with able-bodied persons on a less discriminatory

5. Government mandated programs will be limited to supporting general societal goals such as universal service, universal access and providing assistance for Montana citizens in overcoming disadvantages such as low income, senior citizens and the disabled in obtaining telecommunication services.
  - a) These programs will treat all telecommunication providers on an equitable basis and provide compensation to them on a competitively neutral basis.
  - b) The State of Montana will ensure that both universal service and universal access are preserved and advanced on a timely basis through the combined actions of a competitive market and, where necessary, explicit funding mechanisms.
6. Montana's progress in creating a competitive telecommunications environment will be monitored by the Montana PSC or the Montana Consumer Council to measure the availability, affordability, and benefits of basic and advanced telecommunication services to all its citizens.
7. Mechanisms for addressing problems in a competitive market, such as price fixing, artificial monopolies or others will be available to Montana residents to address future consumer protection.

### IMPLEMENTATION OF GOALS:

In order to realize our vision and achieve our goals, the **BRTF** recommends the following guidelines for the bi-annual review.

#### Universal Service -- 5 Years

- 911 service with automatic number identification to all of Montana
- Creation of a state advisory group to support or facilitate competition/cooperation among telecommunication providers
- 9600 baud and above service to 90% of Montana residents requesting such telecommunication access









## **LIBRARY ROLES**

The principle of free, easy, and open access to information is the hallmark of democratic societies. Our society carries out this principle through its libraries, which are called upon to perform two roles. The first being to offer information access; the second being to teach citizens how to find and evaluate information.

Public libraries provide information access to all citizens, whatever their economic or social status, level of education, or location. School and academic libraries train students how to find, evaluate, and apply information resources – not only to complete school assignments, but to prepare for a lifetime of learning.

All types of libraries serve as doorways to information for all Montanans.

- Reevaluate regulation of telecommunication services for possible revision

### **Universal Service -- 10 Years**

- Enhanced 911 service to all of Montana
- Specialized “lifeline” services with limited calling to essential, specific locations at a minimal cost for low income or high cost areas
- Compatibility, for basic voice and data, across multiple technologies including wireless, satellite, cable and traditional telephone cabling
- Directory service which span multiple connection technologies and telecommunication providers

### **Universal Service -- 20 Years**

- Completion of a fully competitive and seamless network of multiple, technically compatible providers across the state of Montana

### **Universal Access -- 5 Years**

- Internet access to all libraries, schools and health care facilities in Montana
- Community access points for free Internet access in 60% of Montana communities
- Messaging services for low-income individuals with local or low access fees from pay telephones
- Install a private, state or university sponsored Internet hub in Montana (similar to NorthwestNet)

### **Universal Access -- 10 Years**

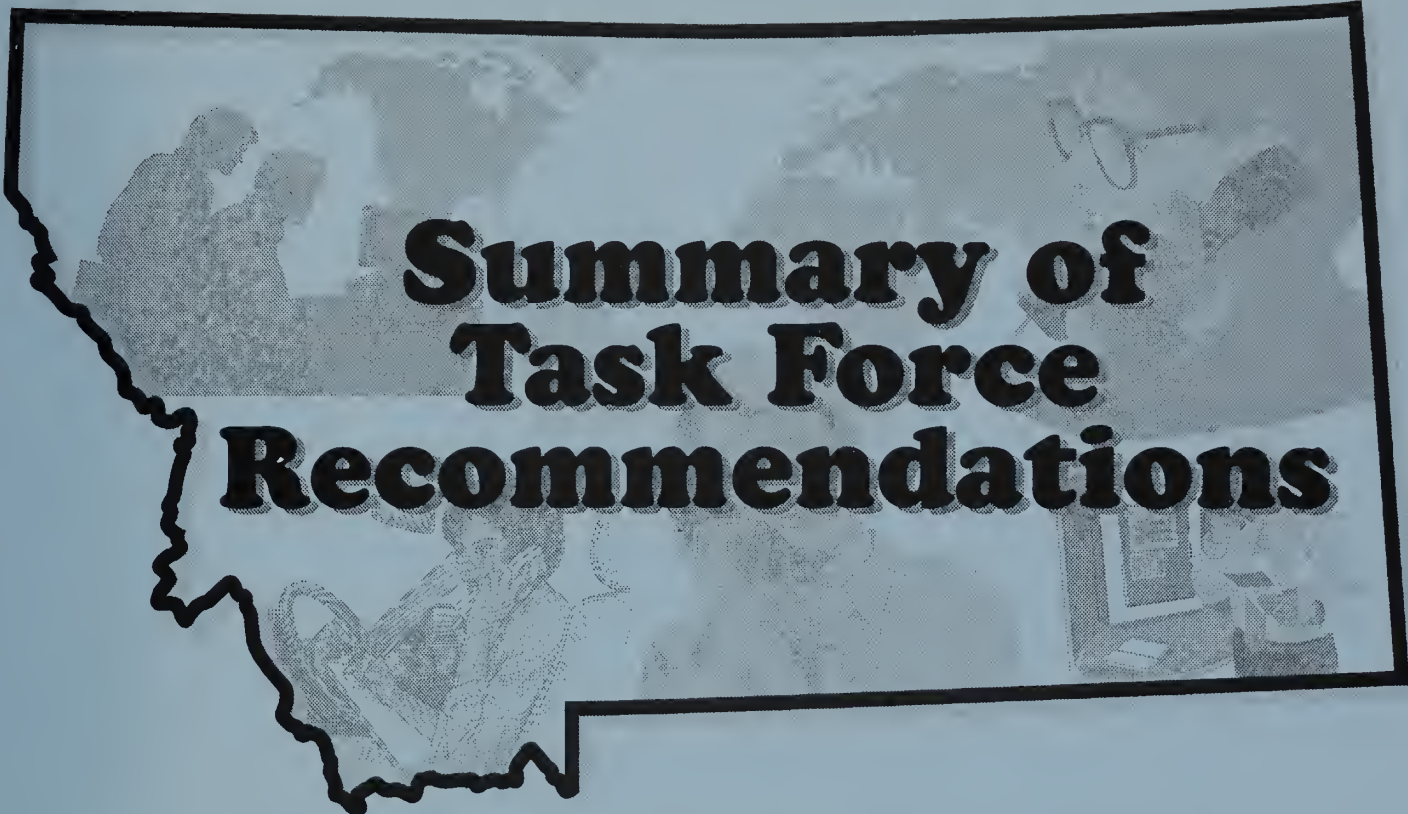
- Community access points for free Internet access in 90% of Montana communities
- Interactive telecommunication services for health care in 75% of Montana communities

### **Universal Access -- 20 Years**

- Interactive telecommunication services for health care in 90% of Montana communities







# **Summary of Task Force Recommendations**





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*The following is a general summary of the recommendations of the **BRTF**. A full explanation of each recommendation is contained in this report under each of the committee's sections along with the background and rationale supporting the action taken by the **BRTF**. The recommendations that will require legislative action during the 1997 legislative session are grouped at the beginning of this summary and the policy recommendations follow in the second section.*

**UNIVERSAL ACCESS PROGRAM:**

A *Universal Access Program* would allow access to advanced services for schools, libraries, rural health care providers and provide universal access to all Montanans. It is recommended by the **BRTF** that funding be provided for this program to cover the 1997-1999 biennium. Funding for the *Universal Access Program* would be based on the retail revenues for all intrastate telecommunication services as defined in *15-53-101(6) MCA*. The Public Service Commission (PSC) would administer this program.

**[BRTF Vote: Unanimous]**

**UNIVERSAL SERVICE FUND:**

The **BRTF** recommends that the Montana PSC review federal implementation of the **Federal Act**, evaluate the impact of federal funds for universal service and access goals in Montana, and draft legislation, if necessary, for the establishment of a state universal service fund. This should be completed for the 1999 legislative session and meet state telecommunication goals.

**[BRTF Vote: Unanimous]**

**INTERCONNECTION:**

The **BRTF** recommends that the PSC be given authority to mediate, arbitrate and approve negotiated agreements of interconnection between providers in a competitive market. The current statutes requiring resolution by state district court eminent domain proceedings should be repealed.

**[BRTF Vote: Unanimous]**







#### **DISPUTE RESOLUTION:**

As local competition becomes a reality in Montana, the need for interconnection arrangements between providers will increase. Issues between companies regarding interconnection terms and rates will certainly occur. The process of litigation to resolve conflicts is not the best solution to settling these issues. As more providers participate in the local markets, the need for an efficient, cost effective process to resolve conflicts will be increasingly important. The Montana PSC is the most logical entity to resolve issues upon which parties cannot reach a negotiated agreement. This would be consistent with the **Federal Act**. Negotiation of interconnection agreements should be between the parties. If the parties are unable to reach an agreement, the procedure for dispute resolution included in the **Federal Act** should be adopted for Montana. Mediation/ arbitration by the PSC should be implemented under a uniform set of standards and procedures.

**[BRTF Vote: Unanimous]**

#### **REGISTRATION:**

Telecommunication providers should be required to register with the Montana PSC and/or the Montana Department of Revenue (DOR) prior to conducting business in the state to monitor the development of competition and to facilitate the administration of telecommunication taxation.

**[BRTF Vote: Carried]**

#### **DEFINITION OF TELECOMMUNICATION PROVIDERS:**

It is recommended the Legislative Committee consult with personnel at the Montana DOR and the PSC and research the **Federal Act** to determine the necessity of making definition changes to the term "telecommunications provider".

**[BRTF Vote: Carried]**

#### **PROMOTIONS:**

The **BRTF** recommends that *69-3-305(5)(2) MCA* be amended to allow more flexibility in offering promotions.

**[BRTF Vote: Unanimous]**









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**COMPETITIVE RATES:**

The Montana PSC should move quickly to examine any non-cost based differential (taking into account any explicit Universal Service Funding) between residence and business prices, and rates for other services such as toll and access to reflect underlying cost structures. This will promote fair competition, encourage investment, and protect consumers from potentially greater price increases in the long run. Regulated providers should quickly seek any necessary adjustments by filing an application with the PSC. The Montana PSC may elect to implement any necessary rate changes in approximately equal steps during a transition period not to exceed three years. The Local Exchange Providers may file applications which seek the above adjustments in a manner which does not affect the earning of the provider and the PSC shall expeditiously render a decision based on the merits of such application. The PSC retains its jurisdiction to pursue earnings investigations, and therefore, has remedies for perceived excess earnings during the transition period.

**[BRTF Vote: 8 Yes 6 No]**

**CAPITAL RECOVERY:**

The emerging competitive marketplace will force the rapid introduction of new technologies. As a result, current depreciation lives must be reviewed to ensure that they provide the recovery necessary to encourage the deployment of new technologies in Montana. In establishing depreciation rates, the Montana PSC must ensure that regulated companies have an opportunity for timely recovery of their capital investments in this competitive marketplace. While depreciation and capital recovery practices may differ initially between existing providers and new entrants, the PSC, when establishing new depreciation rates, must use forward-looking competitive market lives similar to those used by competitive telecommunication providers.

**[BRTF Vote: 10 Yes 2 No 2 Abstain]**

**RESALE:**

Montana should implement policies on Resale consistent with the **Federal Act** and FCC rules. Services that are available for







resale at a discounted rate do not include carrier access services. Wholesale services will only be available to telecommunication carriers for the purpose of selling those services to the carrier's customers. They cannot be purchased for predominantly internal use. Consistent with the **Federal Act, Section 251 (c)(4)(B)**, resale between categories of customers is prohibited until the Montana PSC eliminates any pricing disparity for the same service offered to different categories of customers. For example, residential services may not be resold to business customers. Any explicit Universal Service support to a specific category of customers may not be redistributed to another category of customer, through resale. Lifeline and other means-tested service offerings can only be resold to customers who qualify for the service. Resale will be limited to retail products or services made available by a provider to end user customers.

**[BRTF Vote: 13 Yes 1 No]**

#### **COST/PRICE RELATIONSHIPS:**

The PSC is responsible for ensuring that prices for regulated telecommunication services are above relevant costs to prevent cross subsidization and predatory pricing. During the transition to local competition, the PSC and providers are encouraged to review and remove any implicit subsidies and any other government imposed mandates or restrictions which inhibit competition.

**[BRTF Vote: Unanimous]**

#### **UNBUNDLING:**

Montana should implement policies on unbundling consistent with the **Federal Act** and with FCC rules. (Reference Telecommunications Act of 1996) Network unbundling should proceed, under the jurisdiction of the FCC and PSC, at a reasonable speed based on demonstrated demand.

**[BRTF Vote: Carried]**

#### **INTERCONNECTION:**

Interconnection is an integral part of the **Federal Act** as interconnection of competing local exchange networks is an essential element in the development of a fully competitive







local market. Montana should implement policies on interconnection consistent with the **Federal Act** and FCC rules.

**[BRTF Vote: Unanimous]**

#### **REGULATION:**

Government policies, statutes, rules and regulations should encourage competition on a neutral basis and should neither competitively advantage nor disadvantage any telecommunications provider. The PSC is encouraged to consider the benefits of moving from rate of return regulation to alternative forms such as price regulation. Competition will not occur ubiquitously nor simultaneously across the full spectrum of services for the full body of customers. Some customers will continue to require protection during the transition to a fully competitive market.

**[BRTF Vote: Unanimous]**

#### **COMPETITIVE PARITY – TAXATION:**

The **BRTF** recommends that participants in the telecommunications industry should be taxed on an equivalent basis with one another. The telecommunications industry should be taxed in the same manner and at the same level as other commercial industrial businesses. Telecommunication taxes should be easy to administer and collect, and compliance should also be easy.

**[BRTF Vote: Unanimous]**

#### **DIALING PARITY:**

The ability for customers to route their telecommunications to the provider of their choice without the need to dial extra codes is an important element in the development of a fully competitive telecommunications market in Montana. The goal is to assure that dialing parity is available to all providers of telephone exchange and toll services in Montana. The PSC should move forward in developing necessary rules to allow implementation in Montana consistent with the terms of the **Federal Act**.

**[BRTF Vote: Unanimous]**







#### **REVIEW OF DEFINITIONS:**

The definitions of basic and advanced universal service and access are evolving standards. These definitions should be reviewed prior to each regular legislative session by the Montana PSC and a report developed listing any recommendations to be sent to the Governor and the legislature.

**[BRTF Vote: Carried]**

#### **ACCESS POLICY:**

It is the policy of the State of Montana that access to advanced telecommunication and information services which are available in urban areas of the state shall also be available to rural areas of the state to the extent that is technically feasible and economically reasonable.

**[BRTF Vote: Unanimous]**

#### **ADVANCED TELECOMMUNICATIONS:**

Advanced telecommunication services are currently defined as *high speed (56K and above), dedicated and/or switched, broadband telecommunication capability that enables users to originate and receive high quality voice, data, graphics and video telecommunications using any technology.*

**[BRTF Vote: Unanimous]**

#### **NUMBER PORTABILITY POLICY:**

Number portability -- the ability of customers to retain their telephone number when they switch providers within their local exchange area -- is an important element in the development of fully competitive local exchange markets. Number portability should be provided, to the extent technically feasible, in accordance with the requirements prescribed by the FCC. The costs to implement number portability should be borne by all telecommunication providers on a competitively neutral basis. Rural Local Exchange Carriers may petition for exemption of this requirement under the **Federal Act.**

**[BRTF Vote: Unanimous]**









**UNIVERSAL ACCESS DEFINITION:**

Universal Access is the policy of ensuring that all Montanans have access to advanced telecommunication technologies. In order to make access available to all citizens, an information safety net must be established whereby these services would, at a minimum, be available through a library, school or other public institution in every community in the state.

**[ BRTF Vote: ]**

**UNIVERSAL SERVICE GOAL:**

The goal is to make “basic” telecommunication services available at reasonable prices to all Montanans.

**[ BRTF Vote: Unanimous ]**

**“BASIC” SERVICE ELEMENTS:**

- One party service
- Voice grade line capable of carrying data
- Touch-tone
- Equal access to long distance carriers
- Access to Telephone Relay Systems for the hearing- or speech-disabled customers and other federal mandates
- Access to emergency services
- Access to directory service

**[ BRTF Vote: Unanimous ]**







# **Montana Telecommunications Industry Overview**





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Montana's population is currently served by 19 local exchange companies. These companies serve a total of 488,900 access lines. *U S WEST Communications (USWC)* serves the majority of the customers in Montana. Local exchange companies other than *USWC* are referred to as independent companies. There are 18 of these companies in Montana serving approximately 30% of the state's customers and 80% of the geographic area of the state. A map depicting the service areas of each company is included in *Appendix VII*.

- *USWC* serves approximately 342,000 (70%) of the state's access lines in 54 communities.
- *PTI Communications (PTI)* serves 52,300 (11%) of the state's access lines in 15 Flathead Valley communities.
- Eight telephone cooperatives serve 55,700 (11%) of the state's access lines in 139 rural communities.
- Nine small investor-owned companies serve 39,800 (8%) of the state's access lines in 48 rural communities. Four of these companies are subsidiaries of cooperatives.

All of these Montana companies provide primarily single-party<sup>1</sup> local dial tone service. They also provide custom calling services<sup>2</sup>, public coin telephones, directory assistance<sup>3</sup>, and telephone directories. Additionally, voice mail and CLASS services<sup>4</sup> are available in most areas.

Local exchange companies sell "access" to their local networks to long distance companies for originating and completing long distance phone

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<sup>1</sup> Some "grand fathered" two-party service still exists.

<sup>2</sup> Custom calling features include call waiting, three-way calling, call forwarding and speed calling.

<sup>3</sup> *USWC* either provides directory assistance to customers of independent telephone companies directly or provides the service under contract with the local company.

<sup>4</sup> CLASS services include Caller ID, Last Call Return, Selective Call Forwarding, Selective Call Rejection, Selective Call Acceptance, and Continuous Redial.







calls. These services are referred to as carrier access services and are purchased by long distance companies on a “per minute” basis.

Montana’s local exchange companies serve the state with all digital central office switching and transport facilities. Most of the facilities that connect central offices are fiber optic cable. *USWC* has local fiber optic backbone networks in the six largest communities in the state, bringing all businesses in these communities to within one mile of the fiber backbone. Additionally, many of the smaller communities in the state have fiber optic connections through the major business sections of town and near most of the schools and health care centers.

Montana’s local exchange companies employ approximately 1,250 Montanans with annual wages and salaries over \$48 million. These companies pay over \$16 million in state and local property taxes.

There are no competitive local exchange companies operating in Montana at this time. Many states with large metropolitan centers such as Seattle and Denver are served by several alternative local exchange providers. The most well known of these companies are Metropolitan Fiber Services (MFS) and Electric Lightwave, Inc. (ELI). These companies market services predominantly to business customers. The **Federal Act** is expected to bring new local exchange companies to every state.

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Montana’s long distance market is separated into two pieces: interLATA which includes interstate, and intraLATA. Montana has two Local Access and Transport Areas (LATAs) that were formed in 1984 when AT&T divested the Regional Bell Operating Companies, including *USWC*. The Montana LATA boundaries are shown on the map located in *Appendix VII*.

The vast majority of Montanans can select the long distance company of their choice to provide interstate and interLATA services. After a customer chooses a long distance carrier, each call beginning with a 1+ or 0+ are automatically routed to the chosen carrier. AT&T, MCI, Sprint, Allnet and Touch America are the principal companies in









Montana's long distance market. However, there are over 25 other long distance companies offering service in the state.

*USWC* is the default carrier for most intraLATA long distance<sup>5</sup> calls. Customers can use other long distance companies by dialing additional digits. *USWC* is currently prohibited from providing interLATA services. Independent telephone companies, with the exception of a small amount of traffic inside each company's individual serving area, do not carry any long distance traffic<sup>6</sup>. The **Federal Act** will eventually allow *USWC* into the interLATA market and will also allow customers a choice of providers for their 1+ intraLATA long distance calls.

Operator services are provided by AT&T, *USWC*, and other long distance providers. Independent telephone companies contract with *USWC* for local operator services.

Montana's long distance companies other than *USWC*<sup>7</sup> pay approximately \$5,423,000 in state and local property taxes.

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### CELLULAR COMPANIES:

In 1981 the FCC adopted rules creating a commercial cellular radio telephone service. The FCC set aside radio spectrum for two competitors in each market. These markets are comprised nationally of 30 metropolitan market areas and 428 rural service areas. Montana has two metropolitan market areas and ten rural serving areas.

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<sup>5</sup> *Due to the long distance arrangements made in 1984, traffic originating in PTI's territory that is technically intraLATA is provided by the customers' interLATA long distance company.*

<sup>6</sup> *Long distance services are carried by USWC, AT&T, MCI and other long distance companies. These companies buy carrier access services from the independent companies.*

<sup>7</sup> *USWC's property taxes are included with the local exchange companies.*







From the beginning, the FCC encouraged competition in the cellular industry by dividing the available spectrum into two channel blocks -- one for the local wireline telephone companies and the other for non-wireline companies. Licenses were granted for these two blocks based on comparative hearings in the major markets if there was more than one applicant and a lottery system in the rural markets.

Cellular systems operate by dividing large geographical areas into cells. As a caller travels, the system transfers (hands off) calls from cell to cell without noticeable interruption. Cells are connected to a switching office by land line or microwave links. The switching office transfers calls between the public telephone company network and the cellular network.

Cellular systems use largely analog technology. In major markets, the cellular systems are fast approaching the system's total capacity. To solve this problem, digital technologies are being developed to increase the capacity of cellular systems. Cellular companies adopting new digital technologies will continue to also use analog equipment to serve those customers who have not purchased new digital phones.

In an attempt to provide widespread service, the FCC gave each initial cellular licensee five years from the date of their original license to build and expand their network. During this five year fill-in period, no applications from anyone other than the two licensees in each block were accepted. Any remaining areas within the market not covered at the end of five years was considered an "unserved area". The FCC recently completed rules for additional licenses in these areas.

Montana has been served predominantly by CommNet Cellular and Cellular One. Several smaller cellular companies are now operating or will begin operating soon under the new licenses for unserved areas. Cellular companies provide both local and long distance services. Additionally, they offer voice mail and custom calling features such as call waiting, call forwarding and conference calling. The new digital technologies will increase the use of cellular services for facsimile and data services.







## PCS COMPANIES:

Personal Communications Services (PCS) is a new wireless technology that is only now beginning its implementation in major metropolitan areas. PCS is broadly defined by the FCC as "radio communications that encompass mobile and ancillary fixed communication services that provide services to individuals and businesses and can be integrated with a variety of competing networks". PCS may also be used in the development of more advanced wireless phone services that will be able to pinpoint the subscriber in any given locales. PCS will likely be used to provide a variety of mobile services including an entire family of new services utilizing very small, lightweight, multi-functional portable phones, portable facsimile and other imaging devices, advanced two-way paging, and wireless data services. PCS networks will be able to communicate with other telephone and data networks.

The FCC is providing PCS licenses through an auction process. The FCC's plan allows up to four providers in each market. There are 51 metropolitan PCS markets and 493 smaller markets. Montana will begin to see the provision of PCS services in the next two years.

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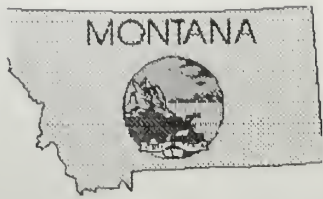
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Montana's 30 cable television providers are on the cutting edge of customer service, technology innovation and quality programming. Over 152,000 households are served by Montana's cable providers which include major national corporations like TeleCommunications, Inc. (TCI), small businesses, independently owned cable companies like Harlo Cable TV and subsidiaries of consumer cooperatives offering both local telephone and cable television to the state's rural residents like the Cable and Communications Corporation.

The cable television industry employs over 400 Montanans who earn over \$7 million in salaries and wages. The industry also pays over \$500,000 annually in state and local property taxes. Cable operators are deploying the latest technology -- fiber optic cable, cable modems, and digital compression in communities all over Montana -- bringing high speed data transmission to schools, hospitals, local governments and law enforcement agencies.







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Cable companies carry a variety of public service, educational and family oriented programming, including C-SPAN 1&2, Mind Extension University, CNN and the Family Channel in most Montana communities. In addition, many operators participate in special education activities sponsored by state and national cable associations, including "Cable in the Classroom" and "Voices against Violence".

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Direct Broadcast Satellite (DBS) technology provides digital television signals via small 18 inch satellite dishes. DBS television providers give customers a selection of television and digital music channels much like that offered through cable television systems. DBS technology is now allowing rural Montanans to receive a wide variety of entertainment television that was not previously available. DBS technology is now incorporating modems into the network in a manner similar to the cable television industry. DBS will become one of several alternatives for data services in the future.

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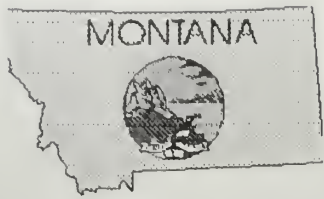
#### **Dedicated Data Services:**

All local exchange companies and most long distance companies provide dedicated data services. These services provide for the transmission of digital data over a line that is connected on a point-to-point basis rather than "switched" using the dialed location number of other customers. Today, new technologies are beginning to allow customers to have many of the same advantages of the switched network for data services. Frame-relay technology and ATM technology allow customers to use non-dedicated facilities to reach a variety of other points. These technologies are expected to evolve to a point where the data network will allow "switched virtual circuits", i.e. the network will allow high speed data to be provided on a dial-up basis where customers can reach any point on the network, much like today's voice network.









### **Internet:**

In the early 1990s the world quickly metamorphosed from the Industrial Age to the Information Age. The transfer of physical resources in the past, as a mechanism to achieve prosperity, is giving way to a future where exchange of information is a primary source of wealth. The power to move mountains of dirt is being replaced by the power to move mountains of information. The limitations on access to knowledge, previously clustered around the urban areas and universities, are now being removed and opened to people around the world. We find ourselves on the threshold of an era where we can easily participate in a modern education and economy from a cabin in the Rockies as from a school or corporate suite in New York City.

Although the University System has historically been the primary conduit for Internet traffic, many other segments of the Montana population are quickly gaining access through commercial Internet Service Providers (ISPs). The skyrocketing growth of ISPs in the last several years is expected to abate as larger providers enter the market and increase services while driving down prices.

Access to the Internet is quickly becoming a necessity for education, business, health, agriculture, government and consumers. Service providers are quickly modifying information delivery and data acquisition services to a single source on the Internet. The federal government is one of the prime entities involved in this process as they switch to electronic processing of both incoming and outgoing forms, information and reports. As Internet access becomes more prevalent in the next five years, there are great potential benefits and equally great problems to solve. As Internet access and its attendant economics become a necessity for life in the modern world, there are substantial changes for growth of inequities between the "haves" and "have-nots". The disparity can be caused by economics, access to technology, or literacy.







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Montana's statutes confer regulation on telecommunication providers based on the services that each company provides to its customers. Regulated services are limited to "two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport". Regulated services do not include customer equipment, resale of services, cellular and other radio and paging services, one-way transmission of television signals, and private telecommunication services. Under Montana statutes, local exchange services, carrier access services, long distance services, directory and operator services, and many custom calling and CLASS services are regulated. Dedicated data circuits, billing and collection services provided to other telephone companies, the provision of equipment and premise wiring, and some incidental services are not regulated. Additionally, Montana does not regulate rural cooperatives if they meet the requirements of *MCA Sections 35-18-101, et seq.* that require an elected board of trustees and return of the cooperatives' net revenues to its members.

Generally, Montana established rates for regulated utilities by determining a revenue requirement. This requirement is calculated to allow the utility to recover its reasonable expenses and give investors a reasonable opportunity for a return on capital invested in the utility<sup>8</sup>. In determining the revenue requirement allowed for the utility, the Montana PSC can evaluate whether the utility's investment in telecommunication assets are reasonable and whether those assets are used and useful. It can also review expenses and disallow any unreasonable expenses. After calculating the total revenue the utility needs to generate, the Montana PSC then determines the "rate structure" for the utility. This rate structure sets the rates to each class of customers and each individual rate element.

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<sup>8</sup> This return includes both the interest of the debt of the corporation and a percentage return to the stockholders.







The Montana PSC has the authority to monitor regulated companies through annual reporting requirements and to investigate earnings and service matters. The Montana PSC also sets service quality standards. The **Federal Act** defines new roles for the Montana PSC. Changes to its current role are most significant in its duties to arbitrate and approve agreements between competing telecommunication providers including compensation arrangements.







# Process







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The **BRTF** held their first meeting on September 22, 1995 at the State Capitol Building in Helena, Montana. These deliberations resulted in the following working guidelines, principles, and identification of issues.

1. The fifteen Governor-appointed members and fourteen ex-officio members may bring motions to the table, but only the fifteen appointed members may vote.
2. All parties agree to fully participate in the discussions.
3. The **BRTF** will utilize “working groups” to do “staff work” for the full **BRTF**.
  - Working groups will consist of appointed and ex-officio members.
  - The Chairman will appoint members to the working groups.
  - Working groups are expected to: explore and fully discuss issues assigned to them; be prepared to present alternatives and possible consequences and advantages; and when possible, make recommendations and give reasons for recommendations.
  - Those who are not members of the **BRTF** can be involved in work group discussions; however, only appointed and ex-officio members can vote on recommendations for the full **BRTF**.
4. When coming to decision, “majority” is defined as one-half plus one. A quorum for the **BRTF** is nine appointed members.
5. The Chairman will facilitate **BRTF** meetings and is given some discretion in that facilitation. Parliamentary procedure will be used. Only one person will speak at a time and **BRTF** members take responsibility for their own communications.





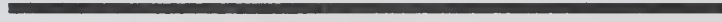


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6. Proxies may be used, but they can only be given to another voting member.



1. When involved in **BRTF** business, members will attempt to look at the overall good of the state while recognizing the particular interests involved.
2. **BRTF** members agree to take their citizen representation seriously and facilitate on-going communication with those interests.
3. The **BRTF** will inform citizens about meetings and their outcomes.



1. Define basic telecommunication services in Montana to include subsidies (direct and indirect); rural vs. urban; access; service standards; and universal service and access.
2. Determine availability of all possible services to all at affordable rates; the cost effectiveness for access to telecommunications; and universal service and funding (can it be done and affordable?).
3. Coordinate state law with federal legislation (652/1555); identify degree of government regulation; determine state government's role in telecommunications; develop compliance, implementation, conformance and monitoring related to federal regulations; and work in a regulatory environment.
4. Determine role of competition in the market and deregulation.
5. Identify possible subsidies.





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6. Identify technologies and infrastructure (needs, development, funding); develop incentives to invest; cooperate; avoid duplication; and develop rules of standardization, compatibility and interconnection.
7. Develop an information safety net.
8. Determine how to meet the needs of various users (libraries, education, business, and government).
9. Develop funding of public systems.
10. Determine how to deal with impediments to technological advancement that exist within the law (direct/indirect -- telemedicine cost reimbursement).
11. Notify public with proper notice including sub-committee meetings for their public input.
12. Define education (broadly-defined); affordability; and appropriate technology.
13. Identify taxation structures.

November and December 1995 resulted in the selection of the **BRTF** Director and the organization of the **BRTF** into four working committees. The members of the **BRTF** chose to serve on one or more of the initial committees: Federal Legislation, Montana State Government Role; Universal Access; and Universal Service. With the passage of the **Federal Act** the **BRTF** was restructured to deal with the broader issues brought about by the **Federal Act**. The committees have been focused on the issues originally identified and assigned by the **BRTF**. The report of each committee follows.







*Immediately after its organizational efforts, the **BRTF** began to examine what Montanans need and expect from its telecommunication providers. The **BRTF** recognized two distinct segments of telecommunication users. The first segment was the general population of all telecommunication users in Montana. The **BRTF** decided that the telecommunication needs of all users fit the category of “universal service”. The second segment was a sub-group of users that would embrace and had immediate need for advanced telecommunication services. The **BRTF** defined the needs of this second group of customers as “universal access”.*

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#### **BASIC SERVICE:**

After discussing the needs of the first segment of users, representing all telecommunication users in Montana, the **BRTF** determined that Montana must have a goal of making “basic” telecommunication services available at reasonable prices to all Montanans. The **BRTF** decided that the definitions of basic and advanced universal service and access are evolving standards. The definition should be reviewed prior to each regular legislative session by the Montana PSC and a report with recommendations sent to the legislature and Governor. The **BRTF** recommends that “basic” services consist of the following elements:

- One party service
- Voice grade line capable of carrying data
- Touch-tone service
- Equal access to long distance carriers
- Access to Telephone Relay Systems for the hearing- or speech-disabled customers and other federal mandates
- Access to emergency services
- Access to directory service



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#### **ONE-PARTY SERVICE:**

The **BRTF** determined that this goal, while not yet achieved, has been reached for a high percentage of Montanans. One-party service is available in every area of Montana. While two-party service is still in use in some areas of the state, it is not available to new customers and existing customers have been encouraged to upgrade to one-party service.

#### **VOICE-GRADE LINE CAPABLE OF CARRYING DATA:**

One of the largest current deficiencies in the provision of basic service recognized by the **BRTF** is the fact that many lines in Montana are not capable of carrying mid-range data services (9600 to 28800 baud). Because of the sparse population in the state, many telecommunications customers are located many miles from the serving central office. These distances have historically required the use of equipment that deteriorates data transmission. Although this problem may be expensive to resolve, it was an area of concern pointed out by many **BRTF** members.

#### **TOUCH-TONE SERVICE:**

Touch-tone service is now required to dial through many automated answering systems, and it is necessary for using CLASS features and data services. Touch-tone also adds convenience for making long distance credit card calls. Touch-tone is currently available to all customers in Montana. Because almost all customers subscribe to touch-tone service, some local exchange companies have bundled it with local service and no longer have a separate monthly charge for this service. Other companies continue touch-tone as an optional service.

#### **EQUAL ACCESS TO LONG DISTANCE COMPANIES:**

Equal access to interLATA long distance services is currently available in most areas. A small number of communities do not have equal access. Additionally, intraLATA equal access is not yet available in Montana. However, the **Federal Act** requires intraLATA equal access upon bona fide requests from long distance carriers and *USWC*'s entry into the interLATA long distance market.







### **ACCESS TO TELEPHONE RELAY SYSTEMS FOR HEARING- AND SPEECH-DISABLED CUSTOMERS:**

Access to Telecommunications Relay Systems (TRS) is available statewide. This service is provided by interstate long distance companies. TRS for local and intrastate long distance services are provided under contract to the State of Montana. The current provider of these services is Sprint. The program is funded by a \$0.10 surcharge on each access line in Montana.

### **ACCESS TO EMERGENCY SERVICES:**

Almost all areas of Montana have basic 9-1-1 services. There are currently only five counties in Montana that do not have 9-1-1 service. However, the lack of 9-1-1 service in these counties is not caused by unavailable telecommunication services or relatively higher telecommunications costs in those communities. 9-1-1 systems are partially funded through a \$0.25 surcharge on each access line in the state.

The Montana 9-1-1 Advisory Council reported to the **BRTF** that there is increasing demand for improvements to basic 9-1-1 systems and Enhanced 9-1-1 services. The Council is encouraging improvements to basic 9-1-1 services by implementing systems that display the calling number to the Public Safety Answering Point (PSAP), use all dedicated lines for 9-1-1 calls from all communities in the county to dispatch center, and increase training for the PSAP operators. The Council has established the goal of having all 9-1-1 systems operating on telephone facilities capable of providing automatic number identification (ANI) within five years. The Council is also reviewing Enhanced 9-1-1 systems. These enhanced systems would allow PSAPs to have immediate access to the premise owner name and location on every 9-1-1 call. Adequate funding does not exist for Enhanced 9-1-1 services. The Council is currently studying this issue and funding requires may come to the 1997 legislature.

### **ACCESS TO DIRECTORY SERVICES:**

All customers in Montana have access to directory assistance and at least one telephone directory. Many customers receive multiple telephone directories from competing companies.







Directory assistance for local and intrastate calls is provided by *USWC*. Other local exchange companies have contract arrangements with *USWC* to provide this service to the customers in each company's local serving area. The **BRTF** recognized that while access to directory service is not a current problem, local competition may complicate the provision of these services.

#### **LOW INCOME ISSUES:**

In addition to reviewing the current availability of basic service, the **BRTF** also recognized that there are long-term concerns regarding the ability to achieve the goal of universal service for Montana. There may be isolated groups of customers that cannot afford basic services in Montana. Under today's Low Income Assistance Program, qualifying customers can obtain a discount equal to the interstate subscriber line charge (\$3.50) and an equivalent amount from their local exchange company if their local exchange company participates in the program<sup>9</sup>.

This program was set up by the Montana Legislature to assist low income consumers. To be eligible for the program, customers must be eligible for Medicaid<sup>10</sup>. Each participating local exchange company is currently required to fund these discounts internally through the general rate structure to all customers.

No study has been performed to determine the impact of this discount on the penetration of services to low income customers<sup>11</sup>. However, census data indicates that about 15 rural counties have over ten percent of households with no phone. On a more targeted scale, 24 census blocks have over 20 percent of households without a phone. Many of these areas have high Native American populations and some have

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<sup>9</sup> *A low income assistance program is mandatory for providers of regulated local telecommunication services with more than 50,000 participants. Participation in a low income assistance program of other local exchange companies is voluntary.*

<sup>10</sup> *Medicaid cards are also used for eligibility verification purposes.*

<sup>11</sup> *During 1995, 6,751 customers took advantage of this discount.*







very poor economies. The **BRTF** concluded that a much more in-depth discussion about the penetration problems in Montana needs to take place<sup>12</sup>. Many people without phone service cite long distance bills, rather than unaffordable local charges, as the cause. Innovative solutions need to be examined. Voice-mail boxes for those without service, restriction on long distance service, and emergency-only phones have been mentioned as possible solutions to some of the problems encountered by Montanans without phone service.

#### **HIGH COST ISSUES:**

The **BRTF** is also concerned that all Montanans may experience increasing difficulty in affording basic service. Today, basic local exchange services for residential customers is less than \$20 per month. However, rural telephone providers receive additional compensation from the federal Universal Service Fund (USF) to offset the higher cost of service in rural areas. This funding is specifically targeted to keep local rates at a reasonable level. The federal USF is funded by interstate long distance companies based on the relative customer counts for each company. The total fund is approximately \$750 million.

In 1994 *USWC* and *PTI* received a total of about \$200,000 from the federal USF. Montana companies other than *USWC* and *PTI* received approximately \$12 million (2%) of this fund. This amount averages over \$10 per month for each access line. Individual companies receive amounts to offset local telephone charges that range from \$1.00 per month to over \$50 per month.

Traditional pricing methods have also assisted in keeping residential prices down. All incumbent telephone companies partially fund the local network through charges to long distance companies, higher rates to business customers and contributions from other optional services. While this pricing

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<sup>12</sup> Additionally, the FCC has an ongoing proceeding to review problems with telephone service penetration levels in the United States.









worked well in a monopoly environment, it will not be possible in a competitive market. As competition enters the market, the total cost of all telephone services should decrease. However, as pricing structures change to facilitate competition, the amount paid by individual customers will also change. Residential customers that do not frequently make long distance calls or subscribe to optional services will most likely have higher phone bills.

#### **FEDERAL TELECOMMUNICATIONS ACT ISSUES:**

The **Federal Act** contains very strong support for universal service. It establishes the following national principles relative to the **BRTF** goal for universal service:

- *Quality services should be available at just, reasonable and affordable rates.*
- *Consumers in all regions of the nation, including low income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services that are provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.*

The FCC has initiated a proceeding to establish rules to implement the universal service sections of the **Federal Act**. Among other issues, the FCC will establish rules regarding the services to be funded and the amount of funding that will be provided to achieve the principles set forth. Due to the initial comments in the proceeding, the **BRTF** is concerned that federal mechanisms may not meet all Montana's needs. However, this proceeding will not be completed until May 1997.







**MONTANA UNIVERSAL SERVICE FUND:**

The transition to a competitive marketplace and the lack of federal universal service rules made the **BRTF** deliberations difficult. The **BRTF** found that the best solution cannot be formulated until the federal rules are established and a better understanding about the impacts of competition are known. Therefore, the **BRTF** adopted the following recommendation:

*Legislation should be adopted charging the Montana PSC with: ① reviewing the impact on universal access and service in Montana of any federal universal service fund which results from the current FCC rulemaking process associated with the **Federal Act**; ② evaluating the extent to which such a federal universal service fund falls short of supporting legislatively-defined universal access and service goals in Montana; and ③ developing plans and proposed legislation for the establishment of a state universal service fund which would ensure the attainment of those goals for consideration during the 1999 legislative session.*

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**BACKGROUND:**

The second segment of customers discussed by the **BRTF** included users that would embrace and had immediate need for advanced telecommunication services. The **BRTF** recommended Montana adopt a policy that access to advanced telecommunications and information services that are available in urban areas of the state shall also be made available to rural areas of the state to the extent that it is technically feasible and economically reasonable. Advanced services were defined by the **BRTF** as high speed (56K and above), dedicated and/or switched, broadband telecommunications capabilities that enable users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology.







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The **BRTF** concluded that access to advanced services is critical to Montana’s economic and social future. Traditionally, many individuals view data services, especially Internet, as an educational and recreational tool. However, data services are now bringing a wide variety of benefits to all levels of our society. Access to financial markets and stock prices are immediately available. Montanans can use on-line services to access urban markets<sup>13</sup>. Advanced services can also be used by a wide variety of businesses, including health care providers, to access research materials and to keep training and mandatory certifications current. Additionally, increase distance learning capabilities will give schools access to more classes and allow them to share teaching resources.

**UNIVERSAL ACCESS:**

The **BRTF** defined “universal access” as the policy of ensuring that all Montanans have access to advanced telecommunication technologies and services. To make access available to all citizens, an information safety net must be established whereby these services would, at a minimum, be available through a library, school, or other public institution in every community in the state. After extensive discussion with representatives of these user groups, the **BRTF** concluded that advanced services are widely available to Montanans. However, currently these services may not be affordable to many key customer groups. These groups include schools, libraries, and rural health care facilities. Also, these services may not be available in isolated communities.

The FCC has a proceeding to establish discounts for services provided to these customers. However, at this time it is uncertain whether these discounts will fund any intrastate services or will be adequate to address the needs of Montana. The **BRTF** expressed great concern that Montana may fall seriously behind the rest of the country in access to information if it waits for the FCC to act before addressing the needs of key user groups.

<sup>13</sup> Access to urban markets is becoming increasingly important for agricultural markets.







### **THE UNIVERSAL ACCESS PROGRAM:**

The **BRTF** recommends that a Universal Access Program be created to cover the 1997-1999 biennium. This Program may also be terminated or combined with the Montana Universal Service Fund discussed earlier no later than January 1, 2000. This Program will represent a minimal approach to fulfilling the goals set forth by the **BRTF** to allow access to advanced services for schools, libraries, and rural health care providers and to provide universal access to all Montanans.

### **PURPOSE:**

The Program is intended to further the goal of universal access in Montana. It should be used to increase the safety net coverage in Montana, encourage innovation in communities to bring advanced services to Montana's rural areas, and assist communities that have already succeeded in obtaining services where ongoing transport costs threaten the ability to continue these services. To accomplish the goals of the Program, funding will be provided to move toward equalization of the cost of services in urban and rural areas. The Universal Access Program will not address all **BRTF** concerns relating to access to telecommunication services in Montana. However, it is intended to assure that Montana moves its telecommunications capabilities forward during consideration of a long-term solution.

### **DEFINITIONS:**

- **Advanced Services**  
High speed (56K and above), dedicated and/or switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics and video telecommunications using any technology.
  
- **Health Care Provider**  
Any of the following institutions located in Montana or a consortium that consists of one or more of these institutions: post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; community health care centers or health centers providing health care to









migrants; local health departments or agencies; community mental health centers; not-for-profit hospitals; and rural health clinics.

- **Library**

A library located in Montana that is eligible for participation in state-based plans for funds under *Title III* of the Library Services and Construction Act (20 U.S.C. 335c et seq.).

- **Public Access Point**

At a minimum, all public access points must provide the ability for the general public to access , free of charge and at hours that are convenient, on a walk-in basis, advanced telecommunication services that are not subscription based. Public access points are not prohibited from offering subscription based services such as e-mail but will not be required to administer these types of services.

- **Schools**

Montana elementary schools and secondary schools that meet the definition set forth in paragraphs (14) and (25), respectively, of *Section 14101* of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) that do not have an endowment of more than \$50,000,000 or Bureau of Indian Affairs elementary and secondary schools.

- **Tribal Colleges**

Colleges recognized by the United States Federal Government as a Tribal College.

**SERVICES ELIGIBLE FOR FUNDING:**

This Program will fund only advanced services. The Program will recognize the following priorities:

**First Priority:** Increasing Montana's safety net by funding services to one public access point in each community.







**Second Priority:** Providing services to the following institutions:

- ⇒ Schools
- ⇒ Tribal Colleges
- ⇒ Libraries
- ⇒ Health Care Providers

The administrator will establish funding levels for each of the categories listed below to reflect these priorities. The services for which funding is available fall into the following categories:

- **Public Access Point:** Funding will be used for access to advanced information services.
- **Education:** Funding will be limited to schools and tribal colleges. Funds will be used for distance learning, electronic access to educational resources, and electronic delivery or reception of educational programming.
- **Libraries:** Funding will be available to libraries not serving as public access points for electronic access to information and library services.
- **Rural Health Care Providers:** Funding will be used to provide rural health care professionals access to similar services as urban health care providers and to ensure electronic access to health care services.

**FUNDED DISCOUNTS:**

The Program will provide the following funding:

1. A discount equal to 50% for an equivalent of one 56K dedicated circuit to the nearest access point for the requested service. For instance, access to a service that utilized frame relay technology would be the equivalent of a dedicated 56K circuit to the nearest frame relay cloud interface and a dedicated circuit for Internet that does not utilize frame relay would be equivalent to the cost of the mileage charge for a 56K circuit to the nearest Internet provider capable of handling 56K access. The cost to the







customer after the 50% discount for this dedicated transport will be capped at \$100 per month<sup>14</sup>.

2. If the Program's funds are inadequate to cover the above discount plan for all applicants, then each applicant will receive an amount that is reduced in an equal proportion.
3. The cost from the telecommunications provider to the customer and to the Program must be based on the best price available to any business customer. Providers must agree to increase rates no more than 5% per year for the duration of this Program.
4. Either interstate or intrastate services may be funded. However, the funding from this Program will be the difference between any funding provided by the interstate universal service fund now being established by the FCC.
5. Funding will be provided in such a manner to prevent customers from receiving funds after services have been terminated or use Program funds for any other purposes.
6. Discounted services will not be resold to the public in competitive markets.
7. Applications for discounts for a public access point must be accompanied by a resolution of support from the appropriate city, county, or tribal government.

#### **CONTRIBUTIONS TO THE FUND:**

The Program will be funded based on the retail revenues for all intrastate telecommunication services. Customer premise equipment will not be considered a telecommunications

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<sup>14</sup> For example, if the dedicated circuit to reach a frame relay cloud is \$150 per month and the frame relay service cost is \$80 per month, the customer would pay \$155 and the Program would fund \$75. If the cost of the dedicated circuit was \$350 per month, the customer would pay \$180 per month and the Program would fund \$250.







service. Funding will be considered an explicit subsidy which may be shown as a separate line item on each provider's bill. The administrator will assure that the funding is applied to all telecommunication providers on a competitively neutral basis. In recognition of the different cost structures in the wireless and CATV industry, the retail revenues for these providers will be based on an equitable, per access line, revenue equivalent. Funding for the biennium for this Program will be \$1.5 million. Because demand in the first year is estimated to be less than the second year, the Program will be funded at \$500,000 for the first year and \$1 million for the second year. If the federal universal service fund currently under consideration at the FCC provides overlapping discounts, the Montana DOR may decrease the overall funding level.

**ADMINISTRATION:**

Collection of the revenues for this Program will be administered by the Montana DOR. The Montana PSC will administer the remainder of the fund. An oversight group consisting of both users and industry participants will meet with the administrator quarterly. Understanding that this Program is short-term in nature, the **BRTF** recommends the Montana PSC contract the majority of the staff time needed or hire only temporary employees.









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The continual expansion of telecommunications technology and the rapid growth of telecommunication-based industries have put pressure on government to reform decades old policies and practices. Montana, like the rest of the nation, faces a challenge. The challenge to ensure that this dynamic new communications environment reaches its full potential and that benefits to Montanans are maximized.

Passage of **HB 460** by the 54th Montana Legislature and the **Federal Act** by the United States Congress provide an opportunity to build a blueprint to encourage the development of a fully competitive telecommunications marketplace in Montana. The **BRTF** examined existing policies and considered new policies that would facilitate Montana's transition to a competitive market.

The Federal Legislation/Policy and Regulation of State Government sub-committee focused on three general tasks.

1. Developing regulatory and statutory policies needed to be developed to facilitate a rapid transition to a fully competitive telecommunications environment.
2. Identifying and eliminating barriers to competition needed to be identified and removed to ensure a level playing field for all telecommunication competitors.
3. Examining the **Federal Act**, which ushers in local competition on a national scale to determine if any enabling language needs to be added to Montana statute.

Specifically, 15 issues (listed alphabetically below) were examined.

**ISSUE: CAPITAL RECOVERY**

The terms "capital recovery" and "depreciation" are often used synonymously. Depreciation is defined as "*the loss in service value of plant through consumption, obsolescence, wear and tear, etc.*"

Sweeping changes are taking place in the telecommunications industry across the United States. These changes include rapidly changing technologies, markets, and ever increasing competition for all services.







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This combination of factors means that existing investment is at risk of becoming obsolete sooner.

Investment in the telecommunications infrastructure is essential to ensure that advancing technology and evolving services are made available to Montana customers. The **BRTF** recognizes that capital investments by telecommunication providers have been essential to the development of a high quality public network infrastructure in Montana. This infrastructure will be an essential element in the development of competition since the public switched network will provide the basis for the interconnection and inter-operability among competing companies. Provision of this base infrastructure and continued investments in the existing public switched network are critical.

Past capital investments in the public switched network were made in a monopoly environment where there was a reasonable opportunity for recovery of those investments by local exchange carriers over an extended period of time.

#### **Policy Recommendations and Strategies for Implementation**

The emerging competitive marketplace will force the rapid introduction of new technology. As a result, current depreciation lives must be reviewed to ensure that they provide the recovery necessary to encourage the deployment of new technology in Montana.

In establishing depreciation rates, the PSC must ensure that regulated companies have an opportunity for timely recovery of their capital investments in this competitive marketplace. While depreciation and capital recovery practices may differ initially between existing providers and new entrants, the PSC, when establishing new depreciation rates, must use forward-looking competitive market lives similar to those used by competitive telecommunication providers.





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### **ISSUE: CERTIFICATION/REGISTRATION**

The **BRTF** heard concerns from both the Montana DOR and the PSC in being able to identify new telecommunication companies doing business in the state. The Montana DOR has difficulty in identifying all companies providing service to Montanans (especially resellers of services) so that it can collect applicable taxes. The PSC needs information to provide protection to consumers. To address these issues, the **BRTF** examined various certification and registration programs. An underlying goal was to set up a mechanism to collect necessary information to assist the DOR and the PSC in carrying out their responsibilities in a manner which would not hinder the ability of new companies to conduct business in the state. This issue was given to the Legislative Committee for action.

### **ISSUE: COMPETITIVE PARITY-TELECOMMUNICATIONS TAXATION**

High taxes on telecommunications can place Montana at a disadvantage relative to other states. Inequities in the tax structure within the industry defeat attempts to create a fully competitive market. Inequities with the tax system can be barriers to competition and need to be addressed. Montana needs to provide an environment that attracts new telecommunication businesses into the state while ensuring that they compete on a level playing field with existing telecommunication companies.

The **BRTF**, in addition to making its own recommendation to work towards competitive tax parity, recognized that changing Montana's tax structure is complex. All applicable taxes must be considered. The impact of any proposed tax changes must be carefully considered to avoid negative impacts on state and local governments and schools. The Legislative Revenue Oversight Committee is also working to address this issue.

The telecommunications industry is in the midst of a profound revolution that is altering the identity of its participants, the nature of the services they provide, and the methods for delivering those services. As a result, it is becoming increasingly difficult, and in many cases impossible, to draw meaningful distinctions between either the industry participants or the services that they offer. Historical state







and local tax structures continue to exist where the tax treatment of telecommunication companies is different, in terms of both types and level of tax, than that applied to other commercial enterprises. Existing tax structures not only treat telecommunication companies differently than other commercial enterprises, but also treat competing telecommunication companies differently. The benefits of equitable tax treatment include:

- Nondiscriminatory tax treatment that favors no one will provide the long-term incentive to attract investment to Montana's telecommunications infrastructure.
- Inequities in the tax structure within the industry will defeat attempts to create a fully competitive market that can develop a strong, modern infrastructure and offer consumers a variety of choices.
- Tax savings to a provider favored by an inequitable tax system give that provider an unfair competitive advantage.
- Excessively high tax treatment on the industry as a whole places Montana at a disadvantage relative to other states.

#### **Policy Recommendations and Strategies for Implementation**

In recognition of the above, the **BRTF** recommends the following general tax policies:

- Participants in the telecommunications industry should be taxed on an equivalent basis with one another.
- The telecommunications industry should be taxed in the same manner and at the same level as other commercial industrial businesses.
- Telecommunication taxes should be easy to administer and collect. Compliance should also be easy.

To achieve this, the **BRTF** further recommends:

- Montana move to establish a level playing field in its treatment of telecommunication providers (including consideration of the end user customer









who ultimately pays those taxes) ensuring that no one participant has an unfair tax advantage.

- The Governor and Montana Legislature should work with the Montana DOR to examine tax policies and recommend changes to eliminate tax inequities within the telecommunications industry as soon as possible. They should also examine the differences between taxes assessed to the communications industry as compared to other businesses in the state. The **BRTF** recognizes that substantial changes in tax revenue may result and changes may need to be implemented over time.
- Telecommunication providers should be required to register with the Montana PSC and/or the Montana DOR prior to conducting business in the state to facilitate the administration of telecommunication taxation.
- In addition, consideration should be given to make telecommunications taxation competitive with other states.
- It is recommended that as part of the final draft of legislation, the Legislative Committee research with the Montana DOR and the **Federal Act** to define “telecom-munications provider”.

#### **ISSUE: COMPETITIVE RATES**

Historical pricing practices have centered around the attainment of social and public policy goals rather than actual costs. As an example, the level of contribution from some services -- i.e., carrier access, business services, long-distance -- helped keep basic telephone service for residential consumers affordable. Competition, which has the effect of driving prices towards actual costs makes those historical pricing practices difficult, if not impossible, to retain. The historical pricing practices may also hinder competition. According to an FCC







report issued February 23, 1996, "*local service pricing practices that implicitly subsidize other types of service or other categories of carriers may fail to reflect the underlying costs of service, distorting incentives for market entry. A competitively fair environment in the local telephone service market would serve universal service by allowing consumers to reap the benefits of competition*".

#### **Policy Recommendations and Strategies for Implementation**

The Montana PSC should move quickly to examine any non-cost based differential (taking into account any explicit Universal Service funding) between residence and business prices, and rates for other services such as toll and access, to reflect underlying cost structures. This will promote fair competition, encourage investment, and protect consumers from potentially greater price increases in the long run. Regulated providers should quickly seek any necessary adjustments by filing an application with the PSC.

The PSC may elect to implement any necessary rate changes in approximately equal steps during a transition period not to exceed three years. The Local Exchange Providers may file applications which seek the above adjustments in a manner which does not affect the earning of the provider and the PSC shall expeditiously render a decision based on the merits of such application. The PSC retains its jurisdiction to pursue earnings investigations, and therefore, has remedies for perceived excess earnings during the transition period.

#### **ISSUE: CONSUMER PROTECTION**

In a monopoly market, one of the major roles of a regulatory agency involves consumer protection. As a market becomes competitive, the discipline within the market will be attained by competitive forces and less rigorous oversight by a regulatory agency is required. The **BRTF** heard testimony that Montana statutes are in place today to assure that telecommunications customers are protected. These statutes and rules were implemented in a monopoly environment. In addition, the PSC







has adopted Administrative Rules to further protect consumer interests.

**Policy Recommendations and Strategies for Implementation**

The **BRTF** made no additional recommendations in the area of consumer protection.

**ISSUE: COST/PRICE RELATIONSHIPS**

Historically, the Montana PSC has had responsibility to ensure that prices for regulated telecommunication services covered their costs. At the same time, social policies encouraged the use of subsidies and pricing practices to promote universal service, primarily to residential consumers. As competition unfolds, several important factors need to be considered. Regulatory subsidy mechanisms or pricing practices that are based on the existence of a total monopoly in local telephone services may impede competition. In essence, a cost-price disparity has the potential to artificially depress competitive demand for a service (if the price is below cost) or place an entity at a competitive disadvantage (if the regulated price is too far above cost).

**Policy Recommendations and Strategies for Implementation**

The PSC is responsible for ensuring prices for regulated telecommunication services are above relevant costs to prevent cross subsidization and predatory pricing. During the transition to local competition, the PSC and providers are encouraged to review and remove any implicit subsidies, and any other government imposed mandates or restrictions which inhibit competition.

**ISSUE: DIALING PARITY**

Dialing parity -- the ability for customers to route, without the need to dial extra codes, their telecommunications to the provider of their choice -- is an important element in the development of a fully competitive telecommunications market in Montana. The goal is to assure that dialing parity is available to all providers of local telephone service and toll service in Montana.







### **Policy Recommendations and Strategies for Implementation**

The PSC shall implement 1+ intraLATA dialing parity, consistent with the terms of the **Federal Act**.

Implementation of 1+ dialing parity by the incumbent Bell Operating Company (*USWC*) shall be coincident with their entry into the in-region interLATA toll market; this would not preclude earlier implementation by other Local Exchange Companies. The PSC shall move forward to develop necessary rules to allow implementation in Montana, consistent with the terms of the **Federal Act**.

### **ISSUE: DISPUTE RESOLUTION**

As local competition becomes a reality in Montana, the need for interconnection arrangements between providers will increase. Issues between companies regarding interconnection terms and rates will certainly occur. The current process of litigation to resolve conflicts will not be the best solution. As more providers participate in the local markets, the need for an efficient, cost effective process to resolve disputes will be increasingly important. The Montana PSC is the most logical entity to resolve issues upon which parties cannot reach a negotiated agreement. This process is consistent with the **Federal Act**.

Negotiation of interconnection agreements should be between the parties. If parties are unable to reach agreement, the procedure for dispute resolution included in the **Federal Act** should be adopted for Montana. Mediation/arbitration by the PSC should be implemented under a uniform set of standards and procedures.

### **Policy Recommendations and Strategies for Implementation**

Montana statutes should be assessed and amended to assure that the PSC has the necessary authority to fulfill the arbitration/mediation/enforcement responsibilities outlined in the **Federal Act**. The Legislative Committee of the **BRTF** should analyze the statutes and recommend the required legislative changes. The Committee should use the following guidelines in





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development of new statutes (consistent with the **Federal Act**):

- Arbitration is limited to the parties to the negotiation process.
- Arbitration must be confined to the issues certified by the parties to be in dispute.
- The results of arbitration must fall somewhere within the scope of the positions taken by the negotiating parties.
- The arbitrator should view his role as that of referee and not policy maker.
- Powers of the PSC should be narrowly limited to dispute resolution on unresolved issues of interconnections.

Policies adopted should not change today's policy of local control and regulation of cooperatives through their elected Boards of Trustees and membership, except as provided herein.

#### **ISSUE: INTERCONNECTION**

Interconnection refers to the physical linking of two separate telecommunication networks so that traffic can pass back and forth between those networks. The concept of interconnection is important to assure an integrated, efficient telecommunications network when multiple networks are providing services to customers. When a customer places a call, there is an assurance that the call will be completed without regard to who the customer's provider is or how the call is transmitted over multiple networks. In order to accomplish this complex task, the various telecommunication providers must "interconnect" their networks so that transmission is "seamless". Interconnection of competing local exchange networks is an integral part of the **Federal Act** and is an essential element in the development of fully competitive local markets.

#### **Policy Recommendations and Strategies for Implementation**

Montana should implement policies on interconnection consistent with the **Federal Act** and FCC rules.



1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all entries are supported by appropriate documentation and receipts.

3. Regular audits should be conducted to verify the accuracy of the records and identify any discrepancies.

4. The second part of the document outlines the procedures for handling disputes and resolving conflicts.

5. It is important to establish clear communication channels and protocols for addressing any issues that arise.

6. The document also provides guidance on how to maintain confidentiality and protect sensitive information.

7. Finally, it emphasizes the need for ongoing training and education for all staff involved in the process.

8. The document concludes with a summary of the key points and a call to action for all stakeholders.

9. It is hoped that this document will serve as a valuable resource for all those involved in the organization.

10. The document is intended to be a living document and will be updated as needed to reflect changes in the organization.

11. The document is the property of the organization and should be kept confidential.

12. The document is subject to change without notice.

13. The document is intended for internal use only.

14. The document is not to be distributed outside the organization.



- The PSC has a legitimate role in mediation/arbitration/approval of negotiated agreements of interconnection between providers in a competitive market. Legislation should be implemented to assure that the PSC is given authority to act in this capacity.
- The PSC should confine its arbitration/mediation of interconnection disputes to unresolved issues upon which providers cannot reach agreement -- this could involve terms and conditions of interconnection, network unbundling and compensation for interconnection agreements.
- The PSC has a legitimate role in defining and enforcing reasonable network standards for all providers and as a result assure a seamless, integrated network.

#### **ISSUE: NUMBER PORTABILITY**

Number portability, the ability of customers to retain their telephone number when they switch providers within their local exchange area, is an important element in the development of fully competitive local exchange markets.

##### **Policy Recommendations and Strategies for Implementation**

- Number portability should be provided, to the extent technically feasible, in accordance with the requirements prescribed by the FCC.
- The costs to implement number portability should be borne by all telecommunication providers on a competitively neutral basis.
- Rural Local Exchange carriers may petition for exemption of this requirement under the **Federal Act**. Such exemption should be based on the following:







- a) imposition is unduly economically burdensome or technically infeasible, and
- b) the impact has a significant adverse impact on customers of the local exchange carrier.

### **ISSUE: REGULATION**

As the local telecommunication market becomes competitive, Montana must review and revise its regulatory philosophies and strategies to ensure that new issues are addressed, consumers are afforded protection, and that state regulation facilitates competition.

#### **Policy Recommendations and Strategies for Implementation**

Government policies, statutes, rules and regulations should encourage competition on a neutral basis and should neither competitively advantage nor disadvantage any telecommunications provider. The PSC is encouraged to consider the benefits of moving from rate of return regulation to alternative forms such as price regulation. Competition has not, and will not occur ubiquitously nor simultaneously across the full spectrum of services for the full body of customers. Some customers will continue to require protection during the transition to a fully competitive market.

If government regulation is still required in the absence of a competitive market, such regulation should attempt to produce the same societal benefits as competition including for providers: ① the ability to enter and exit markets quickly and easily; ② the ability to price efficiently and flexibly; ③ incentives to offer new products and services; ④ incentive for operating and investing efficiencies; and ⑤ incentives to stimulate sales of existing services. As previously stated, these benefits may best be facilitated under alternative forms of regulation such as price regulation rather than under traditional rate of return regulation.







## **ISSUE: RESALE**

The **Federal Act** requires all incumbent local exchange carriers to offer for resale (at wholesale rates) any telecommunications service that they offer to customers on a retail basis. Resale is considered an important short term strategy for many new entrants as they build out their own facilities and for other entrants who cannot afford, or do not wish, to build their own facilities to provide local telecommunication services.

### **Policy Recommendations and Strategies for Implementation**

Montana should implement policies on resale consistent with the **Federal Act** and FCC rules. Services that are available for resale at a discounted rate do not include carrier access services. Wholesale services will only be available to telecommunication carriers for the purpose of selling those services to the carrier's customers. They cannot be purchased for predominantly internal use.

Consistent with the **Federal Act**, Section 251(c)(4)(B), resale between categories of customers is prohibited until the PSC eliminates any pricing disparity for the same service offered to different categories of customers. For example, residential service may not be resold to business customers.

Any explicit Universal Service support to a specific category of customers may not be redistributed to another category of customer through resale. Lifeline and other means-tested service offerings can only be resold to customers who qualify for the service. Resale will be limited to retail products or services made available by a provider to end user customers.

## **ISSUE: RIGHT OF WAY**

The presence of telephone lines and facilities on public right-of-way has been allowed in Montana statute since 1895. All telephone companies are permitted to use its land to provide services. The





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ability of telecommunication companies to use public right-of-way is an important component in providing services in an expeditious and cost effective manner. Testimony presented to the **BRTF** stated that current Montana statute does not appear to create any barriers for new telecommunication companies to gain access to public right-of-way on an equal basis with incumbent companies.

### **Policy Recommendations and Strategies for Implementation**

The **BRTF** made no additional recommendations on right-of-way.

### **ISSUE: ROLE OF THE PSC**

The historical role of the PSC is to ensure that Montanans get “adequate service at reasonable rates”. As Montana continues to see its telecommunications market transition to a fully competitive market, the role of regulation must also undergo transitions. The PSC defined its vision of how it should manage the transition. The PSC should:

- encourage development of competition by removing barriers to entry without harming the telephone network;
- facilitate entry of new competitors;
- develop Montana-specific implementation policies;
- protect and promote universal service and service quality;
- participate in FCC rule making to implement the **Federal Act**; and
- maintain regulatory authority where monopoly power persists.

New duties resulting from passage of the **Federal Act** will require that the PSC take on the additional role of mediator/arbitrator and approve interconnection agreements between communication companies. The PSC stated that any resulting **BRTF** legislation should provide:

- flexibility to the PSC;
- implementation and enforcement tools;
- statutory provisions/clarification;
- directives to PSC to establish state rules to supplement federal rules;
- tools to promote universal service;







- clarification of authority to agencies (i.e., taxing and fee administration to DOR, PSC fee structure, antitrust and unfair trade practices);
- limited authority (only what's necessary) over unregulated companies; and
- new definitions.

#### **Policy Recommendations and Strategies for Implementation**

Many of the recommendations were incorporated into other policy statements. The **BRTF** did not make separate recommendations on the role of the PSC.

#### **ISSUE: UNBUNDLING**

The **Federal Act** requires “unbundling” of the network at any “technically feasible point”. The concept of “unbundling” the network is to permit new entrants to purchase only those elements of service/facilities from the incumbent local exchange company they want. The new entrant can then resell these unbundled services and facilities, either alone or combined with other services, to attract customers to purchase services from them. This concept is designed to stimulate competition in the local telecommunications market. On August 1, the FCC issued an order which identified seven network elements which, at a minimum, must be unbundled. Those elements are:

- network interface devices;
- local loops;
- local and tandem switches (including software features);
- interoffice transmission facilities;
- signaling and call-related database facilities;
- operations support systems and information; and
- operator and directory assistance facilities.

#### **Policy Recommendations and Strategies for Implementation**

Montana should implement policies on unbundling consistent with the **Federal Act** and FCC rules. Network unbundling should proceed, under the jurisdiction of the FCC and PSC at a reasonable speed based on demonstrated demand.







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The responsibility of the Legislative sub-committee was to reflect on the recommendations of the **BRTF**, the work of the other sub-committees and the need for state legislation brought on by passage of the **Federal Act** by the United States Congress. Guidance for the work of the Legislative sub-committee was drawn from the purpose provisions of **HB 460** passed by the 1995 legislature as well as the vision and goals adopted by the **BRTF**.

The work of the Legislative sub-committee has taken the form of draft legislation which will be introduced at the Fifty-fifth legislature. In addition to the *Legislative and Policy Recommendations* developed by the **BRTF**, the draft contains provisions to recognize the changes that will be implemented by the **Federal Act**. Unfortunately, because of legal challenges and the stage of rule development by the FCC, it is not possible to deal with all of the implications of the **Federal Act**. One of the issues that the **BRTF** will consider beyond the time when this report is published is the need for a *State High Cost Fund*.

The Federal-State Joint Board released its recommendations to the FCC on November 8, 1996. These recommendations address:

- a) services included in Universal Service support;
- b) affordability;
- c) carriers eligible for support;
- d) program for low-income consumers;
- e) rural, insular, and high cost areas;
- f) long term support payments to rural local exchange carriers;
- g) services and support to schools, libraries, and health care providers; and
- h) administration and funding of the Universal Support mechanisms.

These recommendations now go to the FCC for publishing proposed rules, accepting comments and finalizing the rules into law. In addition to these activities, the FCC has several ongoing committees dealing with access reform, which also provides subsidies to help keep basic telephone service rates low. The outcome of these proceedings







is unknown at this time, but it is certain that at least some of the subsidies will be reduced or removed entirely, putting upward pressure on local rates. Finally, several parts of the FCC order on interconnection have been stayed pending review by the 8th Circuit Court of Appeals. If the geographic deaveraging proposals are finally approved, this could again place upward pressure on rates, particularly in the most rural areas of Montana.

For these reasons, the **BRTF** will consider legislation which would create a mechanism to address support for high cost areas, should the above actions require such a funding mechanism. At this time, the **BRTF** does not have specific language developed but will have a proposal before the 1997 legislative session begins.

The **BRTF** will be available during the legislative session to support and explain their deliberations and recommendations contained in the draft bill. The **BRTF** has been assisted by Mr. Lee Heiman, Staff Attorney with the Legislative Services Division in drafting the bill that follows.







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LC0396

\*\*\*\* Bill No. \*\*\*

Introduced By \*\*\*\*\*

By Request of the Blue Ribbon Telecommunications Task Force

A Bill for an Act entitled: "An Act to generally revise the laws relating to the regulation of telecommunications services in response to the federal telecommunications act of 1996; providing for the registration of telecommunications providers; establishing a duty to interconnect telecommunications carriers and providing for negotiated, mediated, and arbitrated interconnection agreements; requiring limited public service commission approval of interconnection agreements; providing for the designation of carriers eligible for federal universal service support; providing that the public service commission may adopt rules to allow verification of a subscriber's change in telecommunications services and providing a penalty for violation of the verification rules; allowing for special ratemaking procedures; restricting the resale of certain telecommunications services; amending the laws regarding promotional offerings by regulated telecommunications providers; changing the types of regulation and criteria for alternative regulation of telecommunications providers; increasing the amount of assistance in the telephone low income assistance program; establishing an interim universal access to advanced telecommunications services program administered by the public service commission; providing a discount for use of advanced telecommunications services for



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certain public access points, schools, libraries, health care providers, and tribal colleges; establishing a surcharge on retail revenue derived intrastate telecommunications services in the state; requiring the public service commission to make recommendations to the 56th legislature regarding universal access and service; amending sections 69-3-801, 69-3-802, 69-3-803, 69-3-805, 69-3-305, 69-3-807, 69-3-809, 69-3-811, 69-3-1001, 2-4-102, and 35-18-503, MCA; repealing sections 69-6-101, 69-6-102, and 69-6-103, MCA; and providing effective dates, an applicability date, and a termination date."

## Statement of Intent

A statement of intent is required for this bill because rulemaking authority is granted to the Public Service Commission and to the Department of Revenue.

[Section 8] authorizes the Public Service Commission authority to adopt procedural rules relating to mediation and arbitration for interconnection proceedings.

[Section 16] grants rulemaking authority to the Public Service Commission to make rules establishing verification procedures for the submission or execution of a change in a subscriber's selection of a provider of telecommunications services. The rules are to address the problems of "slamming" -- a change in service providers that was unauthorized or the service change authorization was made under deceptive or misleading circumstances.

Under the interim universal access provisions of [sections



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24 through 31], the Public Service Commission is to establish surcharge rates as provided in [section 30]. The surcharge rates must take into account different cost structures among telecommunications carriers, particularly the wireless and CATV industry. The retail revenues for these providers should be based on an equitable, per access line, revenue equivalent. The Commission must also set the surcharge rate to produce the amount of revenue necessary to fund the program. The formulation should consider any overlapping federal discounts. The Commission should appoint an oversight group consisting of users and industry participants to meet quarterly with the Commission to review revenue, discounts, and the administration of [sections 24 through 31]. The Public Service Commission must also establish a method for paying discount reimbursements in accordance with [section 29]. The Public Service Commission shall cooperate with the Department of Revenue in determining rates, administering off-sets against any surcharges, and other matters necessary for the administration of [sections 24 through 31].

The Department of Revenue must administer the collection of the surcharge by rule. Because of the limited duration of the program, it is contemplated that the rules and administration be minimal, flexible, and as unobtrusive as possible while ensuring that there are sufficient administrative powers to enable the implementation of [sections 24 through 31].

Be it enacted by the Legislature of the State of Montana:





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**Section 1.** Section 69-3-801, MCA, is amended to read:

"69-3-801. **Short title.** This part may be cited as the "Montana Telecommunications Reform Act of 1997"."

{*Internal References to 69-3-801: None.*}

**Section 2.** Section 69-3-802, MCA, is amended to read:

"69-3-802. **Purpose.** ~~The legislature declares that it remains the policy of the state of Montana to maintain universal availability of basic telecommunications service at affordable rates. [Sections 1 through 23] were adopted in response to the enactment into law of the federal Telecommunications Act of 1996, Public Law 104-104, and the work performed by the Governor's Blue Ribbon Telecommunications Task Force established by Chapter 509, Laws of 1995. This part express the policies of the State of Montana which should govern the orderly transition of the telecommunications industry in the state from a regulated industry to an industry primarily controlled by the economic forces of a competitive telecommunications marketplace. The legislature declares that it remains the policy of the State of Montana to maintain universal availability of basic telecommunications service at affordable rates. To the extent that it is consistent with maintaining universal service, it is further the policy of this state to encourage competition in the telecommunications industry, thereby allowing access by the public to resulting rapid advances in telecommunications technology. It is the purpose of this part to provide a regulatory framework that will allow an orderly transition from a~~



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~~regulated telecommunications industry to a competitive market environment, and it is further the purpose of this part to clarify that the commission has authority to implement alternative forms of regulation for providers of regulated telecommunications services."~~

{ Internal References to 69-3-802:  
69-3-807x                    69-3-809x }

**Section 3.** Section 69-3-803, MCA, is amended to read:

"69-3-803. **Definitions.** As used in this part, the following definitions apply:

(1) "Advanced telecommunications services" means high speed (56 kbps) dedicated or switched, broad band telecommunication capability that enables users to originate and receive high quality voice, data, graphics and video telecommunications using any technology.

~~(1)~~(2) "Commission" means the public service commission.

(3) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b), or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

~~(2)~~(3) "Private telecommunications service" means a system,



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including the construction, maintenance, or operation thereof, for the provision of telecommunications service or any portion of such service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(3)~~(4) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport. Regulated telecommunications service does not include the provision of terminal equipment used to originate or terminate such service, private telecommunications service, ~~resale of telecommunications service,~~ one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(4)~~ ~~"Resale of telecommunications service" means the resale of regulated telecommunications service, with or without adding value, provided any value added would not otherwise be subject to regulation.~~

(5) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange



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carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States Bureau of the Census;  
or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of Census as of August 10, 1993.

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines;  
or

(d) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

(6) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

(7) "Telecommunications carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services. The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226."

{Internal References to 69-3-803:





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69-3-809x

69-3-901x}

NEW SECTION. **Section 4. Statement of Policies.** (1) The commission shall, in the exercise of the powers conferred upon it under Montana law, consider the following declared policies of the State of Montana:

(a) It is the policy of the State of Montana to encourage competition on a neutral basis and to neither competitively advantage nor disadvantage any telecommunications provider.

(b) The regulation of telecommunication providers by the commission should attempt to produce the same benefits as competition including for providers:

(i) the ability to enter and exit markets quickly and easily;

(ii) the ability to price efficiently and flexibly; and

(iii) incentives to:

(A) offer new products and services;

(B) create operating and investing efficiencies; and

(C) stimulate sales of existing services.

(c) It is the objective of the State of Montana to make basic telecommunications services available at the lowest possible price to all Montanans.

(d) It is the objective of the State of Montana to provide at least a minimum level of public access to advanced telecommunications services through a library, school, or public institution in every Montana community under the universal service access provisions in [sections 24 through 31].



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(e) The advanced telecommunications services available in urban areas of Montana should also be available in its rural areas at rates reasonably comparable to rates in urban areas.

(f) All Montanans should have the ability to route their telecommunications to their provider of choice without the need to dial extra codes.

(g) Montana customers should have the ability to retain their telephone number when they switch providers within their local exchange area. Number portability should be provided, to the extent technically feasible and economically reasonable, in accordance with the requirements prescribed by the Federal Communications Commission. The cost to implement number portability should be borne by all telecommunications providers on a competitively neutral basis. Rural providers may petition for suspension or modification of these requirements from the commission.

(h) The commission should proceed at a reasonable speed, based on demonstrated demand, to unbundle the network elements at technically feasible points.

(i) The commission is responsible for ensuring that prices for regulated telecommunications services are priced above relevant costs to prevent cross-subsidization and predatory pricing.

(j) During the transition to local competition, the commission and regulated telecommunications providers are encouraged to review and remove any implicit subsidies and any other government-imposed mandates which inhibit competition.



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(k) When establishing new depreciation rates for rate making purposes, forward-looking asset lives, consistent with the competitive market, and consistent with the asset lives used by competing providers of similar services should be utilized.

(2) (a) Nothing in this section alters the state policy of local control and regulation of cooperatives through their elected boards of trustees and membership as provided in Title 35, chapter 18, however cooperatives providing telecommunications services are subject to registration requirements and other provisions applicable to all other unregulated telecommunications providers.

(b) Nothing in this section grants the commission any power not otherwise provided in another section of Title 69 applicable to the regulation of providers of regulated telecommunications service.

**Section 5.** Section 69-3-805, MCA, is amended to read:

**"69-3-805. ~~Manner of regulation~~ Registration of telecommunications service providers.** (1) Before any person or entity provides ~~regulated~~ telecommunications service within the state of Montana, it shall file with the commission a notice including:

(a) the name and address and phone number of the provider;

(b) ~~a narrative description of the regulated telecommunications service to be offered and the geographic area and markets to be served;~~

~~(c) initial tariffs for the regulated telecommunications~~



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service;

~~(d) such other information as the commission may require to accomplish the purpose of this chapter. the name, address, and telephone number of the person responsible for regulatory contacts and customer dispute resolution on behalf of the provider;~~

(c) a description of the provider's existing operations and general service and operating areas in any other jurisdictions;

(d) a list of the provider's parent, subsidiary, and affiliated companies, together with principal addresses and telephone numbers of each;

(e) initial tariffs or price lists for regulated telecommunications services including a narrative description of the regulated telecommunications to be offered and the geographic area and markets to be served;

(f) a general description of the facilities and equipment that will be used to provide services, including whether the service will be offered on a facilities-basis, a resale basis, or a combination of both of them;

(g) a statement of whether the provider intends to draw from the federal or state universal service fund or other explicit support funds, including a statement of whether the provider intends to seek the commission's designation as an eligible telecommunications carrier;

(h) disclosure of any formal actions against it by any court or state or federal regulatory agency that resulted in any type of penalty or sanction, or within the five years prior to





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the date of filing the notice;

(i) if the provider is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the provider's agent for service of process in Montana, and the date of creation of the business entity; and

(j) such other information from regulated telecommunications carriers as the commission may require to accomplish the purposes of this chapter.

~~(2) The provision of any regulated telecommunications service does not subject the provider thereof to regulation of any other telecommunications services otherwise exempt under this chapter. The commission may waive any of the requirements set forth in subsection (1).~~

(3) The provider must file with the commission a report of any judgment, penalty, or sanction entered in any other jurisdiction which could adversely affect the provider's ability to provide communications services in Montana."

*{Internal References to 69-3-805: None.}*

**NEW SECTION. Section 6. interconnection -- construction and effect.** Nothing in [sections 9 through 14] grants any jurisdiction to the commission over telecommunications carriers except as expressly set forth in [sections 9 through 14], and nothing in [sections 9 through 14] may be construed to limit or repeal exemptions from the commission's jurisdiction otherwise recognized by statute or law. Legislation may not be considered



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to supersede or modify any provision of [sections 9 through 14] except to the extent that the legislation does so expressly.

NEW SECTION. **Section 7. Interconnection -- jurisdiction.** In addition to the authority granted to the commission in 69-3-102 to supervise and regulate public utilities, the commission has authority, for the purposes of implementing [sections 9 through 14], over all telecommunications carriers.

NEW SECTION. **Section 8. Rulemaking authority.** The commission may adopt rules of procedure to implement [sections 13 and 14].

NEW SECTION. **Section 9. Duty to interconnect.** (1) The purpose of this section is to implement specific provisions of the Federal Telecommunications Act of 1996, Public Law 104-104.

(2)(a) Each telecommunications carrier must perform the duties enumerated in 47 U.S.C. 251(a).

(b) Each local exchange carrier must perform the duties enumerated in 47 U.S.C. 251(b).

(c) In addition to the duties provided for in subsection (2)(b), each incumbent local exchange carrier must perform the duties enumerated in 47 U.S.C. 251(c).

(3)(a) Except under the circumstances set forth in subsection (4), the provisions of subsection (2)(c) does not apply to a rural telephone company until:

(i) the company has received a bona fide request for interconnection, services or network elements; and



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(ii) the commission determines under subsection (3)(b) that the request is not unduly economically burdensome, is technically feasible, and is consistent with 47 U.S.C. 254 (other than subsections (b)(7) and (c)(1)(D) of that section).

(b) The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the commission. The commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption provided by subsection (3)(a). Within 120 days after the commission receives notice of the request, the commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with 47 U.S.C. 254 (other than subsections (b)(7) and (c)(1)(D) of that section). Upon termination of the exemption, the commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with the Federal Communications Commission's regulations.

(4) The exemption provided by subsection (3)(a) shall not apply with respect to a request under subsection (2)(c) from a cable operator providing video programming seeking to provide any telecommunications service, in the area in which the rural telephone company was providing video programming on February 8, 1996.

(5)(a) A local exchange carrier with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide may petition the commission for a suspension or



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modification of the application of a requirement or requirements of subsections (2)(b) or (2)(c) to telephone exchange service facilities specified in the petition. The commission shall grant the petition to the extent that, and for such duration as, the commission determines that the suspension or modification:

(i) is necessary:

(A) to avoid a significant adverse economic impact on users of telecommunications services generally;

(B) to avoid imposing a requirement that is unduly economically burdensome; or

(C) to avoid imposing a requirement that is technically infeasible; and

(ii) is consistent with the public interest, convenience, and necessity.

(b) The commission must act upon any petition filed under subsection (5)(a) within 180 days after receiving such petition. Pending such action, the commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

NEW SECTION. **Section 10. Voluntary negotiation of interconnection agreements.** Upon receiving a request for interconnection, services, or network elements pursuant to [section 9], an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in [section 9(2)(b) or (2)(c)]. The





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agreement must include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement.

NEW SECTION. **Section 11. Mediation of interconnection agreements.** Upon the written request of any party negotiating an agreement for interconnection with another telecommunications carrier, the commission may designate a mediator, who may be a commission member, to mediate any differences arising in the course of the negotiation.

NEW SECTION. **Section 12. Arbitration of interconnection issues.** (1) The commission has the authority to arbitrate any open interconnection issues pursuant to 47 U.S.C. 252(b), as it exists on February 8, 1996, according to the standards in subsections (3) through (14). Except as expressly provided in this section, the provisions of the Montana Administrative Procedures Act do not apply to arbitrations conducted upon the authority granted by this section.

(2) During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under [section 10], the carrier or any other party to the negotiation may petition the commission to arbitrate any open issues. A party that petitions the commission under this section shall, at the same time as it submits the petition, provide the commission all relevant documentation concerning the following:



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(i) the unresolved issues;

(ii) the position of each of the parties with respect to those issues; and

(iii) any other issue discussed and resolved by the parties.

(3) A party petitioning the commission under this section shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the commission receives the petition.

(4) A non-petitioning party to a negotiation under [section 10 ] may respond to the other party's petition and provide such additional information as it wishes within 25 days after the commission receives the petition.

(5) The commission shall limit its consideration to those issues set forth by the parties to the negotiation in the petition for arbitration and the response to the petition.

(6) The commission may appoint a hearing examiner for arbitration proceedings under this section. The hearing examiner shall file with the commission a proposed decision within the time set by order of the commission. A hearing examiner must be assigned with due regard to the expertise required for the particular matter. On the filing by a party or the hearing examiner in good faith of a timely and sufficient affidavit of personal bias, lack of independence, disqualification by law, or other disqualification of a hearing examiner, the commission shall determine the matter as a part of the record and decision in the case. The commission may disqualify the hearing examiner and appoint another hearing examiner. The affidavit must state



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the facts and the reasons for the belief that the hearing examiner should be disqualified and must be filed not less than 10 days before the original date set for the hearing.

(7) Participation in the arbitration proceeding will be limited to the telecommunications carrier requesting the arbitration, the telecommunications carrier from which interconnection is being sought, and the Montana Consumer Counsel.

(8) Negotiations among the telecommunications carriers may continue, pending a final decision by the arbitrator.

(9) Unless otherwise agreed to by the parties, the commission shall, within 10 days of the filing of a request for arbitration, conduct a conference with the parties for the purpose of establishing a schedule for the orderly and timely disposition of the arbitration, which schedule shall include discovery deadlines and a hearing date.

(10) The hearing shall be conducted pursuant to the Montana Rules of Evidence and the parties are entitled to be heard, present evidence material to the issues, and cross-examine witnesses appearing at the hearing. Parties shall be allowed to conduct discovery pursuant to the schedule determined by the arbitrator, and such discovery shall be conducted pursuant to the Montana Rules of Civil Procedure.

(11) The commission may issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence relevant to the issues being arbitrated and may administer oaths. Subpoenas so issued must be served and enforced



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in the manner provided by law for the service and enforcement of subpoenas in a civil action in district court. The commission shall regulate the course of the hearings, the need for filing briefs, and may direct the parties to appear and confer to consider simplification of the issues by consent of the parties.

(12) The commission shall file its final decision, or the hearings examiner shall file its proposed decision with the commission, and simultaneously therewith deliver a copy to each party personally or by certified mail. The decision shall:

(a) ensure the resolution of issues presented by the parties, and that such resolution meets the requirements of 69-3-1103 and this section;

(b) establish rates for interconnection, services or access to unbundled network elements pursuant to 47 U.S.C. 252(d); and

(c) provide a schedule for implementation of the terms and conditions of the decision by the parties.

(13) If the person who conducted the hearing becomes unavailable to the commission, the commission shall not be precluded from issuing a final decision based on the record if the demeanor of the witnesses is considered immaterial by all parties.

(14) Unless required for the disposition of ex parte matters authorized by law, the person or persons who are charged with the duty of rendering a decision or to make findings of fact and conclusions of law in an arbitration proceeding, after issuance of notice of hearing, shall not communicate with any party or his representative in connection with any issue of fact or law in the





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case except on notice and opportunity for all parties to participate.

## NEW SECTION. Section 13. Approval of arbitration decision.

(1) Within 30 days of submission by the parties of an agreement adopted by arbitration under [section 12(12)] the commission must approve or reject the agreement in its entirety, or the agreement is considered approved.

(2) The commission may only reject the agreement if the commission finds that the agreement does not meet the requirements of 47 U.S.C. 251 and the regulations prescribed thereunder by the Federal Communications Commission, or the standards set forth in 47 U.S.C. 252(d). Upon rejection of an agreement, the commission must provide the parties with written findings as to any deficiencies.

## NEW SECTION. Section 14. Approval of interconnection

**agreements.** (1) Within 90 days of filing of an interconnection agreement adopted by negotiation of the parties to such agreement, the commission shall approve or reject the agreement, or the agreement is considered approved.

(2) The commission may only reject an agreement filed under this section if the commission finds that:

(a) the agreement, or portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or

(b) the implementation of the agreement or portion is not



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consistent with the public interest, convenience, and necessity.

(3) Upon rejecting an agreement filed under this section, the commission must issue written findings detailing any deficiencies in the agreement.

**NEW SECTION. Section 15. Determination of eligible carrier status -- universal service support.** (1) The commission is authorized to designate telecommunications carriers as eligible for federal universal service support in accordance with 47 U.S.C. 214(e)(1) and 47 U.S.C. 254. This authorization applies to all telecommunications carriers notwithstanding the carrier's exemption from further regulation by the commission.

(2) Upon the petition of a telecommunications carrier, or upon its own motion, the commission shall designate a telecommunications carrier that meets the requirements of 47 U.S.C. 214(e)(1) as an eligible telecommunications carrier for a service area designated by the commission. In the case of area served by a rural telephone company, the term "service area" means the company's "study area" unless and until the Federal Communications Commission establishes a different definition of service area for the company. The term "service area" for all other telecommunications carriers means a geographic area such as a census block or grid block as established by the commission for the purpose of determining universal service obligations and support mechanisms.

(3) Upon receiving a petition from a telecommunications carrier, and consistent with the public interest, convenience,



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and necessity, the commission may, in the case of an area served by a rural telephone company, and shall in the case of all other areas, designate more than one telecommunications carrier for a service area, so long as each additional requesting telecommunications carrier meets the requirements of 47 U.S.C. 214(e)(1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the commission shall find that the designation is in the public interest.

(4) If no telecommunications carrier will provide the services that are supported by universal service support mechanisms under 47 U.S.C. 254(c) to all or a part of an unserved community that requests such service, the commission shall determine which telecommunications carrier or carriers are best able to provide the service to the requesting unserved community. Any telecommunications carrier or carriers ordered to provide such service under this section must meet the requirements of 47 U.S.C. 214(e)(1) and shall be designated as an eligible telecommunications carrier for that community or the unserved portion of the community.

(5) The commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier must give advance notice to the



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commission of the relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The commission shall establish a time, not to exceed one year after the commission approves relinquishment under this section, within which the purchase or construction must be completed.

**NEW SECTION. Section 16. Illegal changes in subscriber carrier selections.** (1) A telecommunications carrier may not submit or execute a change in a subscriber's selection of a provider of telecommunications services except in accordance with verification procedures the commission has adopted by rule pursuant to this section.

(2) Any telecommunications carrier that violates the verification procedures described in (1) and that collects charges for telecommunications services from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation, in accordance with procedures the commission has adopted by rule pursuant to this section. The remedy provided by





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this section is in addition to any other remedies available by law.

## NEW SECTION. Section 17. Special ratemaking procedures.

(1) A provider of regulated telecommunications services may file with the commission, and the commission shall expeditiously hear, an application to eliminate or minimize a non-cost based differential in the price of its telecommunications services without reestablishing its cost of providing all regulated telecommunications services.

(2) If, upon hearing the application, the commission determines that a non-cost based differential exists in the prices of the services of the provider of regulated telecommunications services, it may authorize the provider to eliminate or minimize the differential in a fashion which neither increases or decreases the revenues currently being earned by the provider in providing those services.

(3) The commission may, in its discretion, require any change in prices required by subsection (2) to be implemented over a transition period of not to exceed three years.

NEW SECTION. Section 18. Biennial report on telecommunications. The commission is directed to prepare a status report, limited to data readily available by the commission, to the governor and the legislature by December 1 of each even-numbered year. The report must include:

(1) a report on the implementation of this part and



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[sections 24 through 32];

(2) a summary of the status of competition in the telecommunications industry in Montana, including effects on universal service, rates, technological deployment, and economic development;

(3) a comparison of Montana's progress in relation to neighboring states and the nation in the development of an affordable advanced telecommunications system necessary to maintain and advance Montana's economic viability in a global economy;

(4) changes in regulation that can or should be implemented pursuant to the level of competition in the telecommunications industry; and

(5) recommended changes to Montana law to further the goals of this part and [sections 24 through 32].

NEW SECTION. **Section 19. Restrictions on resale.** The resale of telecommunications services is subject to the following restrictions:

(1) Services that are available for resale at a discounted rate do not include carrier access services.

(2) Resale is limited to retail products and services available to end user customers. Wholesale services are available only for resale and not predominantly for internal use.

(3) Resale between categories of customers is prohibited until any pricing disparity for the same service offered to different categories of customers has been eliminated.



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(4) Any explicit universal service support to a specific category of customers may not be redistributed to another category of customers through resale.

(5) Lifeline and other means-tested services offerings can only be resold to customers who qualify for the service.

**Section 20.** Section 69-3-305, MCA, is amended to read:

**"69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) A public utility may not:

(a) charge, demand, collect, or receive a greater or less compensation for a utility service performed by it within the state or for any service in connection with a utility service than is specified in the printed schedules, including schedules of joint rates, that may at the time be in force;

(b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

(c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly, has or may have the effect of changing the rates, tolls, charges, or payments.

(2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and charges until the rates, tolls, and charges are changed, as provided in this chapter.

(3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of this section and may order payment of interest at a reasonable rate on the refunded amount.



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(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in conjunction with an alternative form of regulation approved under 69-3-809.

(5) (a) A provider of regulated telecommunications service may offer, for a limited period of time, ~~either rebates, price or reductions, or waivers of installation charges~~ in conjunction with promotions, market trials, or other sales-related activities that are common business practices. Promotional pricing ~~of services that remain fully tariffed requires~~ for services other than basic local exchange access to end users does not require advance approval of the commission. Informational price lists must be filed with the commission on or before the date the promotion begins. Promotional offerings for basic local exchange access to end users and packaged services that include basic local exchange access to end users require advance approval of the commission. The commission must approve, deny, or upon a showing of good cause set for hearing, an application for a promotional discount within 30 days of the filing of the application. If the commission has not acted on the application within the permitted time period, the application is considered granted. A promotional offering may not combine monopoly services with competitive services unless authorized by the commission.

(b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install energy conservation and nonfossil forms of energy generation systems in dwellings.





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(c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants and subsidized loans, either by rule or in response to complaints. The commission may determine whether a particular sales activity or grant or subsidized loan program under this subsection is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

(6) A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206. This, however, does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing contracts."

{ *Internal References to 69-3-305:*  
69-3-330x            69-3-330x }

**Section 21.** Section 69-3-807, MCA, is amended to read:

**"69-3-807. Regulation of rates and charges.** (1) As to telecommunications service that is provided under regulation, the commission may establish specific rates, tariffs, or fares for the provision of the service to the public. The rates, tariffs, or fares must be just, reasonable, and nondiscriminatory.

(2) Alternatively, the commission may authorize the provision of regulated telecommunications service under terms and conditions that best serve the declared policy of this state. For



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a service detariffed under this subsection, the provider shall maintain a current price list on file with the commission and shall provide notice of changes in the price list as prescribed by the commission. The commission is not required to fix and determine specific rates, tariffs, or fares for the service and in lieu thereof may:

(a) totally detariff the service;

(b) detariff rates for the service but retain tariffs for service standards and requirements;

(c) establish only maximum rates, only minimum rates, or permissible price ranges as long as the minimum rate is cost compensatory; or

(d) provide such other rate or service regulation as will promote the purposes of this part.

(3) Except as provided in subsection (4), in determining applications under subsection (2), the commission shall consider the following factors:

(a) the number, size, and distribution of alternative providers of service;

(b) the extent to which services are available from alternative providers in the relevant market;

(c) the ability of alternative providers to make functionally equivalent or substitute services readily available;

(d) the overall impact of the proposed terms and conditions on the continued availability of existing services at just and reasonable rates; and

(e) other factors that the commission may prescribe through



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rulemaking that are appropriate to fulfill the purposes of this part.

(4) Notwithstanding the provisions of subsection (3), the commission may exercise its power under subsection (2)(c) with respect to any services of a telecommunications provider if the commission finds that action consistent with the provisions of 69-3-802 and with the public interest. Noncompetitive local exchange access to end-users and carrier access services may not be detariffed.

(5) A provider of regulated message telecommunications service and related services shall average its service rates on its routes of similar distance within the state unless otherwise authorized by the commission. Nothing contained in this subsection may be construed to prohibit volume discounts, discounts in promotional offerings, or other discounts as long as the discounts are not offered in a discriminatory manner.

~~(6) All providers of comparable regulated telecommunications services within a market area must be subject to the same standards of regulation. For purposes of this section, regulated telecommunications services are comparable to the extent alternative providers can make functionally equivalent substitutes or substitute services readily available."~~

{Internal References to 69-3-807: None.}

**Section 22.** Section 69-3-809, MCA, is amended to read:

"69-3-809. **Alternative forms of regulation.** (1) The commission may authorize a provider of regulated



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telecommunication services, as defined in 69-3-803, to implement alternatives to the ratemaking practices required under parts 2, 3, and 9 of this chapter, including but not limited to:

(a) price caps;

(b) price regulation; and

(c) equitable sharing of earnings or revenues between a provider of regulated telecommunications services and its customers.

(2) A provider of regulated telecommunications services may petition the commission to regulate the provider under an alternative form of regulation. The provider shall submit its plan for an alternative form of regulation with its petition. The commission's order on the petition must be issued no later than 9 months after the filing of the petition. The commission shall review and may authorize implementation of the plan if it finds, after notice and hearing, that the plan:

~~(a) will not degrade the quality of or the availability of efficient telecommunications services;~~

~~(b) will produce fair, just, and reasonable rates for telecommunications services;~~

~~(c) will not unduly or unreasonably prejudice or disadvantage a customer class;~~

~~(d) will reduce regulatory delay and costs;~~

~~(e) is in the public interest; and~~

~~(f) will enhance economic development in the state;~~

~~(g) will result in the improvement of the telephone infrastructure in the state; and~~





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~~(h)~~(b) conforms to the purpose stated in 69-3-802 more nearly than regulation under part 2, 3, or 9 of this chapter conforms to the stated purpose.

(3) If the commission determines that the plan does not satisfy the requirements of this section, it may either reject the petition or issue a proposed order modifying the plan as submitted by the provider.

(4) A proposed order modifying the plan submitted by a provider of regulated telecommunications service may not be final until 60 days after issuance. During that 60-day period, the provider may withdraw its petition for alternative regulation or the consumer counsel may object to the proposed order. If a petition for alternative regulation is withdrawn or the consumer counsel objects to the proposed order, the provider:

(a) remains subject to the same regulation that applied when the petition was filed; and

(b) may petition the commission to be regulated under a revised alternative plan.

(5) Upon petition or upon its own motion, the commission may rescind its approval or amend an alternative form of regulation if, after notice and hearing, it finds that the conditions in subsection (2) are no longer satisfied.

(6) Nothing contained in this section may be construed as limiting or otherwise affecting the commission's authority to conduct investigations or hear complaints as provided in part 3 of this chapter."

{Internal References to 69-3-809:



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69-3-305x}

Section 23. Section 69-3-811, MCA, is amended to read:

"69-3-811. ~~Costs for services provided~~ "Relevant cost" defined -- jurisdiction over complaints. (1) ~~Prices charged for a regulated telecommunications service must be above relevant costs unless otherwise ordered by the commission. If the commission determines that a price is below relevant costs, it may ensure that shareholders and not ratepayers are responsible for any relevant costs not recovered through prices.~~

~~(2)~~ With regard to competitive services, the term "relevant costs" includes the price for any components that are used by the telecommunications provider and that would be essential for alternative providers to use in providing the competitive services pursuant to commission-approved methodology.

~~(3)~~(2) The commission has jurisdiction to consider complaints and initiate investigations to determine whether the price charged by a provider of regulated telecommunications service is above relevant costs. The commission may also consider complaints that a pricing or promotional practice violates any provision of this title."

{Internal References to 69-3-811: None.}

NEW SECTION. Section 24. Interim universal access program.

There is an interim universal access program.

NEW SECTION. Section 25. Interim universal access program



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-- **purpose.** The purpose of the interim universal access program is to further the goal of universal access to advanced telecommunications services in Montana by:

(a) increasing safety net coverage through which advanced telecommunications services would, at a minimum, be available through a library, school, or other specified type of public institution in every community in the state:

(b) encouraging innovation in communities to bring advanced services to Montana's rural areas; and

(c) assist communities that have already succeeded in obtaining services where ongoing transport costs threaten the continued availability of these services.

## NEW SECTION. Section 26. Interim universal access program

-- **definitions.** As used in [sections 24 though 32], the following definitions apply:

(1) "Administrator" means the public service commission.

(2) "Advanced Services" means high speed (56 kbs and above), dedicated or switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics and video telecommunications using any technology.

(3) "Health care provider" means any one of, or a consortium of, the following institutions located in Montana:

(a) post-secondary educational institutions offering health care instruction;

(b) community health care centers or health centers



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providing health care to migrants;

(c) local health departments or agencies;

(d) community mental health centers;

(e) not-for-profit hospitals;

(f) and rural health clinics.

(4) "Library" means a library located in Montana that is eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.)

(5) "School" means:

(a) an elementary school or secondary school that meets the definition set forth in paragraphs (14) and (25), respectively, of Section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) and that does not have an endowment of more than \$50,000,000;

(b) or a Bureau of Indian Affairs elementary and secondary school.

(6) "Tribal college" means a college recognized by the United States Government as a Tribal College.

NEW SECTION. **Section 27. Interim universal access program -- public access points.** At a minimum, all public access points must provide the general public access to advanced telecommunication services that are not subscription based, free of charge and at convenient hours on a walk-in basis. Public access points may offer subscription based services such as e-mail, but are not required to administer these types of services.





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## NEW SECTION. Section 28. Interim universal access program

-- funded services -- application for services. (1) The universal access program provides funding only for advanced services for use by public access points, schools, tribal colleges, libraries, and health care providers approved by the administrator.

(2) The first priority of the program is to provide funding for at least one public access point in each Montana community. Subject to available funding, the program shall also provide funding for advanced services to schools, tribal colleges, libraries, and health care providers.

(3) The administrator shall establish funding levels for services in each of the following categories:

(a) for public access points;

(b) education services to schools and tribal colleges for distance learning, electronic access to educational resources, and electronic delivery or reception of educational programming;

(c) library services for libraries not serving as public access points for electronic access to information and library services; and

(e) rural health services to rural health care providers for access to similar services as urban health care providers and to ensure electronic access to health care services.

(4) To receive discounted services under the interim universal access program, public access providers, schools, tribal colleges, libraries, and health care providers must apply



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for the discounts. The application must be accompanied by a resolution of support from the governing body of appropriate city, county, or tribal government in which the applicant is located.

## NEW SECTION. Section 29. Interim universal access program

-- **services provided at discounts.** (1) Telecommunications providers must provide advanced services to eligible users at specified discounts. The amount of the discount will be reimbursed to the provider from the interim universal access account established in [section 31].

(2) The discount is equal to 50% of the best cost rate available to any business customer for an equivalent of one 56 kilobyte dedicated circuit to the nearest access point for the requested service but, except as provided in subsection (3), the cost to the eligible user may not exceed \$100 per month.

(3) If funds from the interim universal access account are not sufficient to fully reimburse for discounts authorized in subsection (2), the amount of the discounts to each eligible user must be reduced proportionally.

(4) Even if best cost rates available to any business customer increase by more than 5%, the amount payable by an eligible user may not increase by more than 5% during the period from [the effective date of this section] to January 1, 2000.

(5) Subject to restrictions in federal law, if interstate universal access services are established by the federal communications commission, federal funding for universal access



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services must be used to reduced state funding for interstate services.

## NEW SECTION. Section 30. Interim universal access program

-- **funding.** (1) (a) The interim universal access program is funded by a surcharge based on the retail revenues for all intrastate telecommunications services in the state. The surcharge will be determined by the administrator by rule. The surcharge must set and applied to all telecommunication providers on a competitively neutral basis.

(b) The rate of the surcharge must be set to raise \$500,000 during the fiscal year ending June 30, 1998 and \$1 million during the fiscal year ending June 30, 1999. The rate may be changed, by rule, as necessary.

(c) The payment of the surcharge is an explicit subsidy and may be shown as a separate line item on each provider's retail telecommunications services bills.

(d) The surcharge may be applied only to telecommunications services. Customer premise equipment is not considered a telecommunications service.

(2) The surcharge is payable quarterly to the department of revenue and deposited by the department in the interim universal access program account established in [section 31]. The department may by rule:

(a) establish the form of a reporting statement to be filed by telecommunications providers subject to the surcharge;

(b) set the date after the end of a fiscal quarter the



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quarterly payment must be made;

(b) provide for record keeping by telecommunications providers subject to the surcharge; and

(c) provide methods to pay the surcharge, including off-sets of surcharges owed against discounted services to be reimbursed, and refunds of overpayment of the surcharge.

(3) The deficiency assessment, review, interest, and penalty provisions of 15-53-105; penalty and interest for delinquency and waiver provisions of 15-53-111; estimation of tax on failure to file a statement provisions of 15-53-112; warrant for distraint provisions of 15-53-113; and the statute of limitations provisions of 15-53-115 apply to the collection of a surcharge under this section. Any reference to the tax under those sections, either by cite to a section of law or literally to the tax, refer, for the purposes of this sections, to the surcharge imposed by this section.

NEW SECTION. **Section 31. Interim universal access program -- account.** An interim universal access account is established in the state special revenue fund in the state treasury. All money received by the department of revenue pursuant to [section 30] must be paid to the state treasurer for deposit in the account. After payment of refunds the balance of the account must be used for the purposed described in [section 29].

NEW SECTION. **Section 32. Commission to make recommendations on universal access and service.** The Montana





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public service commission examine and make recommendations to the 56th Montana Legislature on universal access and service. The commission shall:

(1) review the impact on universal access and service in Montana of any federal universal service fund that results from current federal communications rulemaking under the federal Telecommunications Act of 1996;

(2) evaluate the extent to which the federal universal service fund falls short of supporting legislatively-defined universal access and service goals in Montana; and

(3) develop plans and propose legislation for the establishment of a state universal service fund that would ensure the attainment of those goals.

**Section 33.** Section 69-3-1001, MCA, is amended to read:

**"69-3-1001. Creation of program -- amount of assistance.**

(1) There is a telephone low income assistance program to provide an eligible subscriber with a discount in the monthly charge for local exchange service in the telephone network.

(2) ~~This~~ The commission shall set the discount in the charge for local exchange service is the greater of that is:

(a) \$2 at least \$3.50 a month for each eligible subscriber;

or

(b) but not more than the amount necessary to obtain the matching waiver available under applicable orders and regulations of the federal communications commission which is the difference between the otherwise applicable current rate for local exchange

# THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

SCOTLAND

IN

SEVEN VOLUMES

THE SECOND

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THE SECOND PART

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service and same rate as it was on [the effective date of this section]."

{ Internal References to 69-3-1001:  
69-3-1007x }

**Section 34.** Section 2-4-102, MCA, is amended to read:

**"2-4-102. Definitions.** For purposes of this chapter, the following definitions apply:

(1) "Administrative code committee" or "committee" means the committee provided for in Title 5, chapter 14.

(2) (a) "Agency" means an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons and parole, except that the board is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the Administrative Rules of Montana and the Montana Administrative Register;

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youths or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works;

(v) the public service commission when conducting arbitration proceedings pursuant to section 252 of the federal



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## Telecommunications Act of 1996 and [section 12].

(b) Agency does not include a school district, unit of local government, or any other political subdivision of the state.

(3) "ARM" means the Administrative Rules of Montana.

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(6) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(7) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but nothing in this chapter may be construed to prevent an agency from admitting any person as a party for limited purposes.

(8) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(9) "Register" means the Montana Administrative Register.

(10) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets,



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or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(c) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(d) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals;

(e) rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system;

(f) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the Administrative Rules of Montana.

(11) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with





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this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

{*Internal References to 2-4-102:*  
5-4-403x                    16-11-149x                    40-5-232x}

**Section 35.** Section 35-18-503, MCA, is amended to read:

**"35-18-503. Annual fee to department of revenue -- exemption from other taxes.** Cooperatives and foreign corporations transacting business in this state pursuant to the provisions of this chapter shall pay annually on or before July 1, to the department of revenue a fee of \$10 for each 100 persons or fractions thereof to whom electricity or telephone service was supplied during the previous calendar year within the state and, except as provided in 10-4-201 and [section 30], shall be exempt from all other excise and income taxes of whatsoever kind or nature."

{*Internal References to 35-18-503:*  
35-18-505}

**NEW SECTION. Section 36. {standard} Codification instruction.** (1) [Sections 6 through 19] are intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [sections



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6 through 19].

(2) [Sections 24 through 32] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 24 through 32].

NEW SECTION. **Section 37. {standard} Repealer.** Sections 69-6-101, 69-6-102, and 69-6-103, MCA, are repealed.

{Internal References to 69-6-101: None.  
Internal References to 69-6-102: None.  
Internal References to 69-6-103: None.}

NEW SECTION. **Section 38. Effective dates -- applicability -- rulemaking -- termination.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) (a) [Sections 24 through 32] are effective July 1, 1997.


(b) [Section 30] applies to retail revenues for all intrastate telecommunications services received by telecommunications providers after June 30, 1997.

(c) For the purpose of allowing the implementation of [sections 24 through 32] to begin on July 1, 1997, without resorting to the adoption of emergency rules, the public service commission and the department of revenue may begin the process for the adoption of rules to implement [sections 24 through 32] prior to the effective of [sections 24 through 32] but rules may not be adopted until July 1, 1997.

(d) [Sections 24 through 33] terminate December 31, 1999.


-END-





# Appendices





**Appendix I.**

**House Bill**

**460**





## 1 HOUSE BILL NO. 460

2 INTRODUCED BY QUILICI, MILLS, HARP, WATERMAN, FOSTER, LARSON, BECK, GRINDE,  
3 VAN VALKENBURG, GRADY, BENEDICT, J. JOHNSON, FORRESTER, LYNCH, STANG, SQUIRES,  
4 EWER, BARNETT, MARSHALL, COCCIARELLA

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A BLUE RIBBON TELECOMMUNICATIONS TASK  
7 FORCE TO EXAMINE MONTANA'S TELECOMMUNICATIONS INFRASTRUCTURE AND TO MAKE  
8 RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE TO ENSURE THE IMPLEMENTATION  
9 OF POLICIES, PRACTICES, AND STATUTES REGARDING ACCESS TO ADVANCED  
10 TELECOMMUNICATIONS SERVICES; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING  
11 A GENERAL FUND APPROPRIATION OF ~~\$50,000~~; AUTHORIZING ADDITIONAL SPENDING OF  
12 NONGENERAL FUND REVENUE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

13  
14 WHEREAS, telecommunications services are integral to every aspect of our lives, including  
15 health, education, and safety, to each business, and to each public program and service; and

16 WHEREAS, access to advanced telecommunications services is essential to ensure continued  
17 economic growth, Montana's competitive position in the global market, and a superior quality of life  
18 for Montanans; and

19 WHEREAS, a robust, competitive telecommunications marketplace is most likely to provide the  
20 advanced telecommunications services Montana requires to ensure Montana's competitive advantage in  
21 the global economy, foster the creation of new, higher-paying jobs for Montanans, bring the benefits  
22 promised by the Information Age to all Montanans, and continue Montana's commitment to universal  
23 service; and

24 WHEREAS, advanced telecommunications services are critical to providing a quality education for  
25 Montana's students and ensuring their technical literacy; and

26 WHEREAS, as we Montanans approach the 21st century, our vision for the state and its use of  
27 advanced telecommunications services includes an environment in which:

28 (1) consumers enjoy the benefits of greater choices among high-quality, affordable  
29 telecommunications products and services that respond to the diverse demands of the state's growing  
30 population;



1 (2) businesses enjoy heightened productivity by choosing freely from a rich menu of improved  
 2 telecommunications products and services, ranging from basic telephone service to the most sophisticated  
 3 high-speed services;

4 (3) telecommunications services increase access to and improve the quality, efficiency, and service  
 5 delivery costs of vital services, such as education and health care, for all; and

6 (4) the people of the state, regardless of social or economic circumstances, enjoy ready access to,  
 7 and knowledge of, the fundamental telecommunications services necessary to participate in the changing  
 8 social and commercial fabric of Montana, the nation, and the world.

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
 12 NEW SECTION. **Section 1. Task force -- purpose and scope.** (1) There is a blue ribbon  
 13 telecommunications task force (task force) to examine Montana's telecommunications infrastructure. The  
 14 task force shall recommend policies, practices, and statutory changes that are required to meet customer  
 15 needs, remove barriers, enhance competitiveness and economic development, and identify ways of securing  
 16 other identified values and benefits. The task force shall examine but not limit itself to:

17 (a) current and anticipated trends in telecommunications technologies and services and their impact  
 18 on the economic health and general well-being of all Montana citizens;

19 (b) ways of defining "basic telecommunications service" in a competitive environment, addressing  
 20 consumer protection regarding availability, subsidies from other services and providers, and access by low-  
 21 income consumers and consumers with special needs;

22 (c) ways of defining "telecommunications infrastructure and services" and the evolving role of  
 23 telecommunications providers;

24 (d) ways of defining "universal service", the extent to which it has been achieved, and its role in a  
 25 competitive telecommunications environment;

26 (e) policies regarding extended local calling areas;

27 (f) strategies to promote the development and transition to a fully competitive telecommunications  
 28 marketplace;

29 (g) current and alternative forms of regulation for telecommunications providers and the role of  
 30 state regulation in light of new federal legislation;



1 (h) policies, practices, and statutes that create barriers and disincentives to invest in  
2 telecommunications deployment and use;

3 (i) ways to stimulate private sector deployment of enhanced telecommunications services;

4 (j) ways to ensure that Montana's K-12 and university educational system and public libraries have  
5 access to advanced telecommunications services; and

6 (k) ways to ensure that Montana's health care systems have access to advanced  
7 telecommunications services

8 (2) The task force is allocated to the department of administration for administrative purposes only  
9 as provided in 2-15-121.

10  
11 NEW SECTION. Section 2. Membership -- appointments -- vacancies. (1) The task force is  
12 composed of the following members:

13 (a) ~~13~~ 11 members, appointed by the governor, who are broadly representative of  
14 telecommunications users and providers in Montana;

15 (b) ~~one member of the senate~~ TWO MEMBERS OF THE SENATE, ONE FROM EACH  
16 POLITICAL PARTY, appointed by the ~~president~~ COMMITTEE ON COMMITTEES of the senate; and

17 (c) ~~one member of the house of representatives~~ TWO MEMBERS OF THE HOUSE OF  
18 REPRESENTATIVES, ONE FROM EACH POLITICAL PARTY, appointed by the speaker of the house.

19 (2) Task force members must be appointed and designated no later than September 1, 1995.

20 (3) ~~The governor shall appoint the presiding officer of the task force.~~ THE PRESIDING OFFICER  
21 MUST BE SELECTED BY A MAJORITY VOTE OF THE MEMBERS OF THE COMMITTEE.

22 (4) A vacancy occurring on the task force must be filled in the same manner as the original  
23 appointment.

24  
25 NEW SECTION. Section 3. Remuneration. (1) Each member of the task force, except the  
26 legislative members, is entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503.

27 (2) Each legislative member is entitled to compensation as provided in 5-2-301 and 5-2-302, as  
28 applicable.

29 (3) In addition to the expenditures in subsections (1) and (2), task force funds may be spent for  
30 staff support, contracted services, and other expenses required to fulfill the purpose and needs of the task



1 force.

2  
3 NEW SECTION. Section 4. Meetings -- report to governor and legislature. (1) The task force  
4 shall meet by October 1, 1995, and at the request of the presiding officer thereafter.

5 (2) The task force shall submit its findings and recommendations to the governor and the  
6 legislature on or before September 1, 1996.

7  
8 NEW SECTION. Section 5. Gifts and grants. The task force may accept payments,  
9 contributions, gifts, and grants, in money or otherwise, for the purposes set forth in [section 1]. All  
10 payments, monetary contributions, gifts and grants received by the task force must be deposited in an  
11 account in the state special revenue fund provided for in [section 6].

12  
13 NEW SECTION. Section 6. Special revenue account. There is an account in the state special  
14 revenue fund. The account consists of all payments, monetary contributions, gifts, and grants received by  
15 the task force.

16  
17 NEW SECTION. Section 7. Appropriation -- funding. (1) For the purposes of [sections 1  
18 through 6], there is appropriated to the department of administration:

19 (a) ~~\$50,000~~ \$20,000 from the general fund; and

20 (b) \$175,000 from the account provided for in [section 6].

21 (2) The appropriations provided for in subsection (1) are biennial appropriations.

22 (3) As provided in 17-2-108, the task force, to the extent possible, shall expend revenue  
23 appropriated in subsection (1)(b) before expending general fund money appropriated in subsection (1)(a).

24 (4) Funds appropriated to the department of administration pursuant to subsection (1) but not  
25 expended prior to June 30, 1997, revert to the general fund.

26  
27 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 1995.

28  
29 NEW SECTION. Section 9. Termination. [This act] terminates June 30, 1997.

30 -END-







**Appendix II.**

**Task Force  
Members**



## Governor's Blue Ribbon Telecommunications Task Force Members

MEMBER	NAME	REPRESENTING
Legislators	Senator Tom Beck, Deer Lodge	Agriculture
	Senator J.D. Lynch, Butte	Education
	Rep. Norm Mills, Billings	Small Cable
	Rep. Joe Quilici, Butte	Small Business
Governor's Appointments	Doris Barta, Billings	Telemedicine
	Cheryl Beatty, Anaconda	Local Government
	Cathy Brightwell, Helena	Interchange Carrier
	Bill Cochran, Billings	Libraries
	Cynthia Denton, Hobson	NFIB, Distance Learning, K-12
	Jim Ereaux, Pablo	Native Americans, Tribal Colleges
	Jim Hayhurst, Helena	Large Local Exchange
	Doug Johnson, Missoula	Large Cable
	Joan Mandeville, Great Falls	Small Local Exchange
	Jim Pool, Helena	Small Business, Senior Citizens
Jeff Tabor, Billings	Wireless Communications	
Ex-officio	John Cleaveland, Missoula	Universities
	B.J. Hawkins, White Sulphur	Low Power TV
	Lt. Billi Heigh, Helena	911 Advisory Council
	Tony Herbert, Helena	Government
	Patrick Hogan, Butte	TRI
	Fred Lark, Lewistown	Broadcasters, Wireless Comm
	Kimberly Obbink, Bozeman	Universities
	Danny Oberg, Helena	Regulations
	David Owen, Helena	Small Business
	Mike Strand, Helena	Small Local Exchange
	Tim Sweeney, Helena	Broad Telecomm Background
	Dixie Swenson, Bozeman	Economic Dev., Small Business
	Ed Van Tighem, Great Falls	Disabled
Marc Wilson, Bigfork	Print Media	



# **Appendix III.**

**Federal  
Communications  
Commission  
Proceedings/Schedule**



**1996 ACT**

**FCC Proceedings Required by the Telecommunications Act of 1996**

<b>General Subject FCC Issue:</b>	<b>Sec. 96 Act</b>	<b>Sec. 34 Act</b>	<b>P. 96 Act</b>	<b>Summary*</b>	<b>FCC Schedule</b>
Interconnection #1	101	251	6	Within 6 MONTHS the FCC shall complete all action necessary to establish regulations to implement requirements of the section. p.8. Specifically:	NPRM 4/19/96 Order 8/96 96-98
Interconnection #1	101	251	7	Duty to negotiate Interconnection - Dialing Parity, Access to network elements Unbundled Access Resale Notice of Changes Collocation Numbering - Administration, Portability Incumbent LEC rules	Portability Order 7/2/96 96-116 Number Admin (Done) CMRS/LEC Order 3Q/96 94-54, 95-185 Intel. Network Order 2Q/96 91-346
Interconnection - Pricing #2	101	252	11	Preemption by the FCC if the state does not perform its pricing responsibility p.14.	NPRM 4/19/96 Order 8/96 96-98
Interconnection - Barriers to Entry #2	101	253	16	FCC shall preempt the states if they do not act appropriately.	None
Universal Service #3	101	254	17	Within 9 MONTHS the Joint Board recommendations are due to the FCC. The FCC shall complete the proceeding within 15 MONTHS. ONGOING - the Joint Board and the FCC may recommend modification in the definition of universal service.	NPRM 3/8/96 JB Rec. 11/96 Order 5/97 96-45 Adv. Services NPRM TBD Accounting Safeguards NPRM 4Q/96 Order 2Q/97
Universal Service Joint Board #3	101	254	17	The FCC is to establish a Joint Board within 1 MONTH to implement this section.	Order 3/8/96 Order 4/1/96 96-45
Universal Service Education Discounts #3	101	254	20	The FCC will determine the discount for educational purposes.	NPRM TBD
Universal Service Rural LD Rates #3	101	254	20	The FCC within 6 MONTHS shall develop rules controlling the long distance rates for rural and high cost areas.	NPRM 3/25/96 Order 8/96 96-61





## 1996 ACT

### FCC Proceedings Required by the Telecommunications Act of 1996

General Subject FCC Issue:	Sec. 96 Act	Sec. 34 Act	P. 96 Act	Summary*	FCC Schedule
Universal Service Competitive Services #3	101	254	21	The FCC shall determine rules prohibiting the subsidy of competitive services.	NPRM 4Q/96 Order 2Q/97
Individuals with Disabilities #4	101	255	21	Within 18 MONTHS the FCC (and other government agencies) shall develop guidelines for accessibility of telecommunications equipment and CPE	Equipment NPRM 2Q/96 Report 4Q/96 Service NPRM 2Q/96 Order 4Q/96 HAC Order 5/96 87-124 TRS NOI 6/96
Interconnection - Network Planning #5	101	256	22	The FCC has oversight responsibility for coordinated telecommunications planning.	Redo NRC Charter 4/12/96 Network Planning TBD
Removal of Entry Barriers #6	101	257	22	With 15 MONTHS the FCC shall complete a proceeding for the purpose of identifying and eliminating market entry barriers for entrepreneurs and small business in the provision and ownership of telecommunications services and information services.	NOI 5/21/96 Policy 11/96 NPRM 4Q/96 Order 5/97 96-113
Slamming - Toll and Local #7	101	258	23	No carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or toll service except in accordance with such verification procedures the FCC shall prescribe.	NPRM 2Q/96 Order 4Q/96 94-129
Infrastructure Sharing #8	101	259	23	The FCC shall prescribe within 1 YEAR regulations that require incumbent LECs to share infrastructure with small LECs. Non-compete caveats also apply.	NPRM 7/96 Order 1/97
Telemessaging Service #9	101	260	25	The FCC shall establish procedures for receipt and review of complaints regarding subsidization of telemessaging services such as voice messaging and voice relay services.	Complainant Procedures NPRM 3Q/96 Order 4Q/96
Universal Service Eligible Carriers #10	102	214	26	The FCC for interstate service shall determine which carriers are best able to provide and shall order them to provide service.	NPRM 3/8/96 JB Rec. 11/96 Order 5/97 96-45
Universal Service Service Area Definition #11	102	214	27	The FCC may establish a different definition of area served by a rural telco based on recommendations from the Federal-State Joint Board.	NPRM 3/8/96 JB Rec. 11/96 Order 5/97 96-45



## 1996 ACT

### FCC Proceedings Required by the Telecommunications Act of 1996

General Subject FCC Issue:	Sec. 96 Act	Sec. 34 Act	P. 96 Act	Summary*	FCC Schedule
Public Utilities Holding Co. Act #12	103	NA	27	Within 12 MONTHS the FCC shall promulgate rules implementing changes to Public Utility Holding Company Act that will allow public utilities to apply for exchange carrier status. p.28.	NPRM 4/25/96 Order 4Q/96 Petitions being granted 96-101
Long Distance Service "Check List" #13	151	NA	33	Establishes the FCC's role in permitting BOCs to provide in-region long distance including the "Check List".	Dialing Parity NPRM 4/19/96 2nd Order 4Q/96 96-98 Complaints NPRM 2Q/96 Order 4Q/96 See Safeguards Price Cap Order 9/96
Long Distance Service "Check List" #13	151	NA	33	Establishes the FCC's role in permitting BOCs to provide in-region long distance including the "Check List".	Out of Region LD NPRM 2/14/96 Order 7/1/96 96-21 LD Market NPRM 3/25/96 Order 4Q/96 96-61
Separate Affiliate #13 - Other Requirements	151	272	39	No specific FCC Direction is given in this section to implement the separate affiliate rules. However, it appears as if the FCC will have to issue regulations to implement. A biennial audit is required. See Sec. 274, p. 47 for additional requirements.	See Safeguards
Safeguards #13, 14, 15	151	NA 273 274	33 42 47	Required for long distance, manufacturing and electronic publishing.	Interim NPRM 5/96 Order 8/96 Affiliate & Safeguards NPRM 7/17/96 Order 3/97 96-149 Accting NPRM 7/17/96 Order 3/97 96-150 Other Safeguards NPRM 3Q/96 Order 4Q/96



**1996 ACT**

**FCC Proceedings Required by the Telecommunications Act of 1996**

<b>General Subject FCC Issue:</b>	<b>Sec. 96 Act</b>	<b>Sec. 34 Act</b>	<b>P. 96 Act</b>	<b>Summary*</b>	<b>FCC Schedule</b>
Safeguards #13, 14, 15	151	NA 273 274	33 42 47	Required for long distance, manufacturing and electronic publishing.	Electronic Publishing, Alarm Monitoring & Telemessaging Services NPRM 7/18/96 Order ?
Manufacturing #14 See Long Distance for "Check List"	151	273	42	The FCC may prescribe such additional rules and regulations it determines are necessary to carry out the provisions of the section. Within 90 DAYS, the FCC shall prescribe a dispute resolution process relative to telecommunication standards. p.45.	Protocols NPRM 5/96 Order 8/96 Dispute Resolution NPRM 3/5/96 Order 5/7/96 96-42 See Safeguards Price Cap Order 9/96
Electronic Publishing #15	151	274	47	No specific FCC implementation requirements are ordered. However, the FCC is not prohibited from regulating in compliance with this section. The FCC will process complaints, audits and reports and may generate rules to do so.	See Safeguards Price Cap Order 9/96
Alarm Monitoring #16	151	275	52	The FCC is to establish a complaint process regarding nondiscrimination by a LEC for non affiliated entities and subsidizing its alarm monitoring services. p. 53.	Complaint Procedures NPRM 3Q/96 Order 4Q/96 Data Safeguards NPRM 5/96 Order 8/96
Payphone Service #17	151	276	53	Within 9 MONTHS the FCC shall take all action necessary (including reconsiderations) to prescribe regulations that establish a per call compensation plan, discontinue the access charge payphone service elements and other regulations. p. 54	NPRM 6/6/96 Order 9/96 Reconsider 11/96 96-128
Broadcast Spectrum Flexibility #18	201	336	55	A number of changes are required to the regulations regarding use of broadcast spectrum. No time limits are established.	Standards NPRM 5/17/96 Order TBD 87-268 Allotment NPRM TBD Order TBD



## 1996 ACT

### FCC Proceedings Required by the Telecommunications Act of 1996

General Subject FCC Issue:	Sec. 96 Act	Sec. 34 Act	P. 96 Act	Summary*	FCC Schedule
Advanced Television (Studies) #18	201	336	57	Within 5 YEARS the FCC shall report to Congress on the implementation of advanced television. Within 10 YEARS of first issuing licenses the FCC shall conduct an evaluation of advanced television services.	TBD
Broadcast Ownership #19	202	NA	58	The FCC shall modify its rules regarding the cross/ownership of cable and broadcast. An entity may own both. p.59.	Order 3/18/96 TV Ownership NPRM 2Q/96 Order 4Q/96 95-56
Video Reception #22	207	NA	62	Within 180 DAYS the FCC shall have regulations to prohibit restriction that impair the ability to receive video programming through devices designed for over-the-air, multichannel, multipoint distribution or direct broadcast satellite.	MMDS NPRM 4/4/96 Order 8/96 96-83 DBS NPRM 3/11/96 Order 8/96 95-59
Cable Act Reform #23	301	623	62	The Act makes various changes to the Cable Act. The FCC will need to revise its rules.	Order 4/96/96 NPRM 4/9/96 Order 4Q/96 96-85 Market Definition Order 5/24/96 NPRM 5/24/96 Order TBD 95-178 Video Competition NOI 6/13/96
Cable Rates #23	301	623	66	Within 120 DAYS the FCC shall issue revisions to allow cable operators to aggregate equipment costs into broad categories.	NPRM 3/20/96 Order 6/7/96 96-57
Joint Use - LEC/Cable #24	302	652	68	Joint use by LEC & cable operator appears to be allowed from multi-user terminal to the premises if such use is limited in scope and duration - determined by FCC	NPRM 3/20/96 Order 6/7/96 96-57
Open Video Systems #24	302	653	69	Within 6 MONTHS after enactment the FCC shall complete all action necessary (including any reconsiderations) to prescribe rules. p.70.	NPRM 3/11/96 Order 6/3/96 Recon 8/96 Eliminate 214s Order 3/11/96 96-46 Cost Allocation NPRM 5/10/96 Order TBD 96-112





**1996 ACT**

**FCC Proceedings Required by the Telecommunications Act of 1996**

<b>General Subject FCC Issue:</b>	<b>Sec. 96 Act</b>	<b>Sec. 34 Act</b>	<b>P. 96 Act</b>	<b>Summary*</b>	<b>FCC Schedule</b>
Open Video Systems - VDT Termination #24	302	653	72	The FCC will probably modify the rules concerning video dial-tone because is terminated by the Act.	Order 3/11/96 96-46
Video-CPE Rules #25	304	629	73	FCC shall adopt regulations to assure commercial consumer availability of equipment used to access services provided by multichannel distributors.	NPRM 2Q/96 Order 1Q/97 95-184
Video Accessibility for Hearing & Sight Impaired #26	305	713	75	Within 18 MONTHS (complete the inquiry within 6 months) the FCC shall prescribe regulation to implement video programming accessibility (closed captioning etc). Within 6 MONTHS commence an inquiry on video descriptions for visual impairments.	Order 2/27/96 NOI 3/96 Report 8/96 NPRM 12/96 Order 8/97 95-176
Forbearance from Regulation #None	401	10	76	A telecommunications carrier may petition to the FCC for forbearance from regulation. p.77.	None
Regulatory Relief #None	402	11	77	Beginning in 1998, each odd-numbered year the FCC shall review regulations issued under this ACT to determine if any are no longer necessary.	None
LEC Filings Streamlined #27	402	204	77	A LEC may file new or revised charge, classification, regulations or practices on a shortened basis.	Tariffs NPRM 3Q/96 Order 1Q/97 Complaint Procedures NPRM 3Q/96 Order 4Q/96
214 Applications #27	402	NA	78	It appears that Section 217 Applications are not required for extensions of lines.	NPRM 2Q/96 Order 3Q/96
Annual Data Filings #27	402	NA	78	It appears that ARMIS reports and cost allocation manuals are to be filed annually.	Order 3/20/96 NPRM 5/96 Order 9/96 96-23
Inflation #27	402	NA	78	The FCC shall adjust the revenue requirements to account for inflation in docket CC 91-141.	NPRM 5/96 Order 9/96
Cert. of CPE #27	403	302	79	The FCC may use private organizations to certify CPE.	R&O 5/14/96 95-19
Deprec. Rates #27	403	220	79	Changes language to state that FCC "may" prescribe depreciation rates.	NPRM 1Q/97 Order 4Q/97
Use of Auditors #None	403	220	79	The FCC may use independent auditors.	None
Fixed Microwave Licensing #27	403	309	80	Licensing for fixed microwave is expedited. FCC rules will need to change.	R&O 2/29/96 94-148



**1996 ACT**

**FCC Proceedings Required by the Telecommunications Act of 1996**

<b>General Subject FCC Issue:</b>	<b>Sec. 96 Act</b>	<b>Sec. 34 Act</b>	<b>P. 96 Act</b>	<b>Summary*</b>	<b>FCC Schedule</b>
Restricted Access to Offensive Material #28	501	223	81	The FCC may describe measures to restrict access via telecommunications to offensive material. p.83.	NOI 3Q/96 Policy 1Q/97
Sexually Explicit Video Programming #29	505	641	85	The FCC shall determine hours of the day that sexually explicit adult programming may not be shown.	Order 3/5/96 NPRM 3/5/96 Order 4Q/97 96-40
Video Program Rating #30	551	303	89	The FCC is to establish an advisory committee for the rating of video programming.	TBD
V-Chip #30	551	303	90	FCC shall prescribe regulations to implement the TV rating code requirements within 1 YEAR and manufacturing of sets requirements within 2 YEARS. p.91	TBD
V-Chip Development Fund #None	552	NA	91	This section encourages video programming distributors & related industries to establish a technology fund to encourage manufacturers to facilitate the development of V-chips.	None
BOC Sale of CMRS #31	601	NA	93	BOC sale of CMRS is permitted. Resale of cellular?? Part 22 of the FCC rules need to be changed.	NPRM 2Q/96 Order 3Q/96
Unfair Billing - Toll Free Calls #32	701	228	94	Within 180 DAYS the FCC shall revise regulations to prevent unfair billing practices for information or services provided over toll free phone calls. The FCC may also extend "pay per call" definition to other services. p.97	NPRM 7/11/96 Order 8/96 96-146
Privacy #33	702	222	97	No FCC requirement exists to specifically implement changes in CPNI rules. Likely that the FCC will need to initiate a proceeding at some point to implement new requirements.	NPRM 5/17/96 Order TBD 96-115
Cable Attachments #34	703	224	99	The FCC shall no later than 2 YEARS prescribe regulation in accordance with this section.	NPRM 6/96 Order 3/97
Radio Emissions #35	704	NA	102	FCC shall prescribe and make effective within 180 DAYS rules regarding environmental effects of radio frequency emissions pending in docket ET 93-62.	Order 2Q/96
Radio Siting from Fed. Gov't. #None	704	332	102	Within 180 DAYS the President shall prescribe procedures by which federal depts. may make available their property, rights of way, etc. for radio facility sites.	None
CMRS Access to IXC's #36	705	332	102	CMRS providers are not required to offer equal access but if the FCC determines a problem exists, it shall prescribe regulations.	Order 3/22/96 94-54

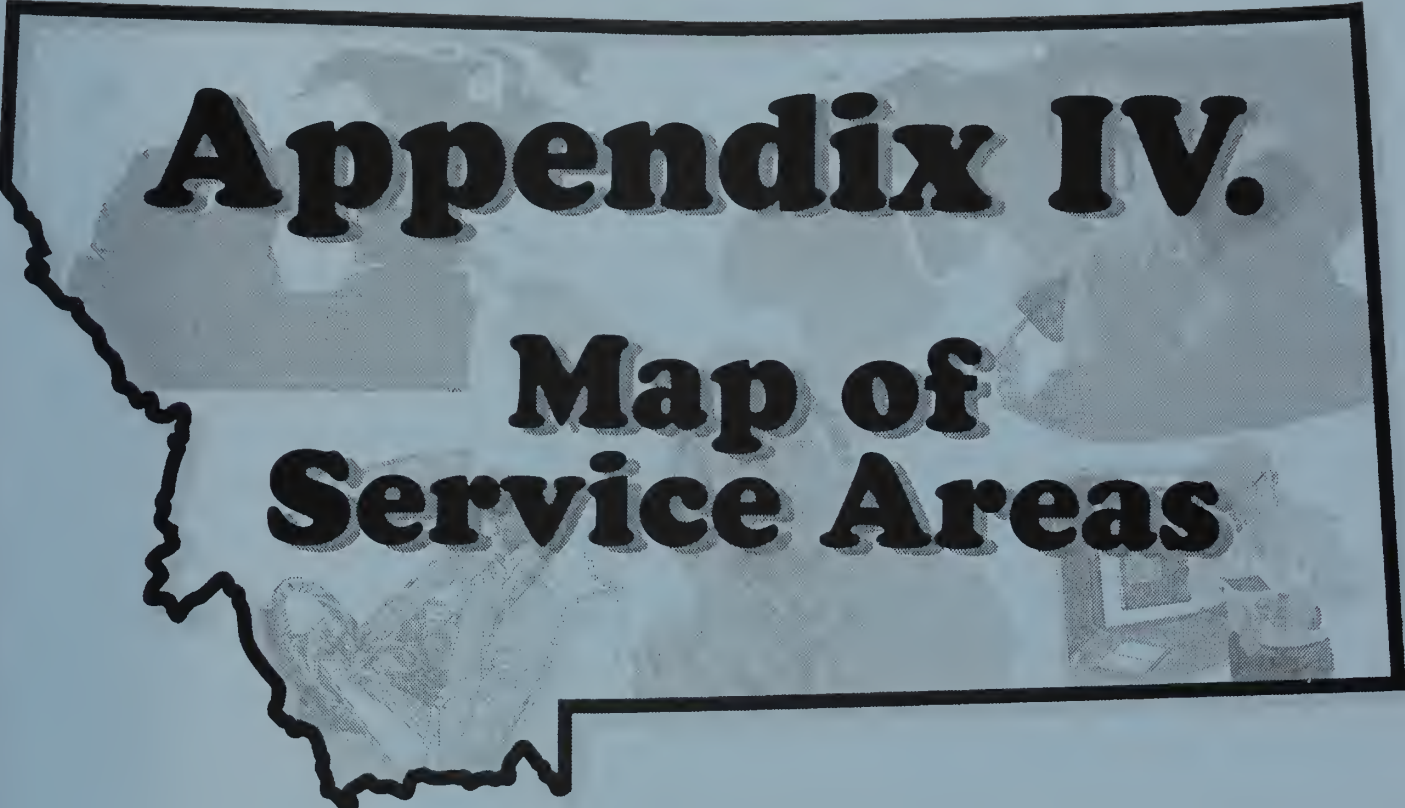


**1996 ACT**

**FCC Proceedings Required by the Telecommunications Act of 1996**

<b>General Subject FCC Issue:</b>	<b>Sec. 96 Act</b>	<b>Sec. 34 Act</b>	<b>P. 96 Act</b>	<b>Summary*</b>	<b>FCC Schedule</b>
Advanced Telecomm Incentives #37	706	NA	103	Within 30 MONTHS the FCC shall initiate an inquiry concerning the availability of advanced telecommunications capability to all Americans.	TBD
Telecomm Development Fund #38	707	714	103	The FCC shall establish the Telecommunications Fund with 30 DAYS. The purpose is to provide capital for small business, stimulate new technology and support universal service. p.104.	Letters 3/11/96 Fund Est. 2/20/96 Interim Chair 3/8/96 Appoint Directors 2Q/96
Advanced Telephone for Medicine #None	709	NA	110	This section requires the Secretary of Commerce to submit a report regarding the use of advanced telephone for medical purposes.	None





# **Appendix IV.**

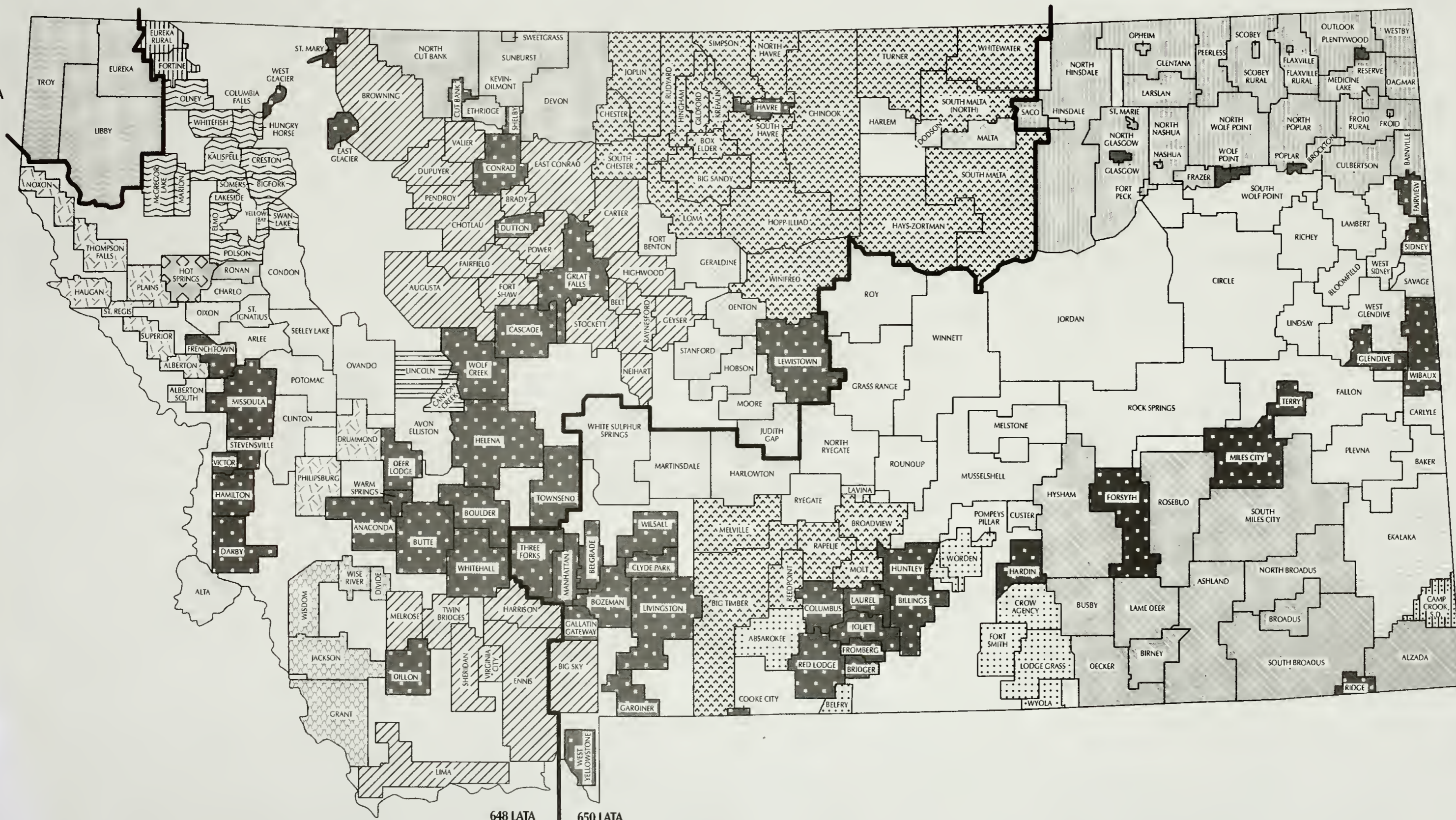
## **Map of Service Areas**





# MONTANA LOCAL EXCHANGE COMPANIES' BOUNDARIES

960 LATA



- Blackfoot Telephone Cooperative
- Central Montana Communications
- Citizens Telecommunications
- Clark Fork Telecommunications
- Hot Springs Telephone Company
- InterBel Telephone Cooperative
- Lincoln Telephone Company
- Mid-Rivers Telephone Cooperative
- Nemont Telephone Cooperative
- Northern Telephone Cooperative
- PTI Communications
- Project Telephone Company
- Range Telephone Cooperative
- Ronan Telephone Company
- Southern Montana Telephone Company
- 3 Rivers Telephone Cooperative
- Triangle Telephone Cooperative
- U S WEST Communications
- West River Cooperative Telephone Company
- Valley Telecommunications
- Unassigned Area

648 LATA    650 LATA





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